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ABSTRACT

Under the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272), Congress outlined a case review system to assure that child welfare agencies monitor children under their care, that parental and child rights are protected, that agencies periodically report progress in implementing case plans, and that agencies work toward a permanent plan for every child in placement. The first of four volumes, this report presents the preliminary findings of the Phase II Comparative Study of Case Review Systems which focused on the dispositional hearing requirement. The study consisted of a national overview of the hearings in fifty states and Washington, D.C. and an in-depth study of the hearings in eight selected sites. The primary sources of information for the national study were telephone interviews with the state foster care administrator and one judge from each state. The data collection instruments for both parts of the study were designed to elicit information about the type of judicial review operating within the state and to specifically explore the state's status with regard to the P. L. 96-272 dispositional hearing components. Chapter topics include current status of the states; state status, change, and support for individual components of P. L. 96-272; periodic reviews and other procedures; due process and decision-making authority of dispositional hearings; impact and problems in implementing and recommendations of agency and court respondents; and preliminary conclusions and issues to be addressed. Extensive tables and appendices are provided, including the agency and court questionnaires used in the study. (DST)

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COMPARATIVE STUDY OF STATE CASE REVIEW SYSTEMS PHASE II -- DISPOSITIONAL HEARINGS

National Survey

Volume I

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EXECUTIVE SUMMARY

Introduction

Under the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272), Congress outlined a two-tiered case review system which includes a review by a court or administrative body at least every six months and a dispositional hearing by a court or court appointed/approved body within 18 months of a child's placement and periodically thereafter. This study focuses on the dispositional hearing requirement of the case review system and addresses three major questions:

(1) What is the response of States to P.L. 96-272 with regard to dispositional hearings?

(2) How are dispositional hearings operating in the States?

(3) What are the advantages, problems and issues surrounding the implementation of the hearings?

Study Activities

To address these questions, a two-part study was conducted consisting of a national exploratory survey of the hearings in 50 States and Washington, D.C., and an in-depth study of the 18th-month dispositional hearings in Arizona, Louisiana, Montana, North Dakota, San Francisco County (California), South Carolina, Virginia, and Washington, D.C. A special feature of the study was collection of parallel information and opinions from both court and agency staff.

The primary sources of information for the national study were telephone interviews with the State foster care administrator and one judge from each State. In addition, a statute search was conducted to determine the statutory basis for case review in each State.

The in-depth study sites were purposively chosen according to the differentiation in their case review systems. Site visits were made to the State office and three counties in each State (except in the case of San Francisco County). Interviews were held with an average of 30 court and agency respondents per State. In addition, 60 case records of children having had hearings were abstracted per State, in order to gain an understanding of the effect of dispositional hearings on case outcomes.

This report presents tabulated results of the national telephone survey and statute search as well as qualitative information from the site visits. A second report will present results of the questionnaire and case record abstract analyses for the selected States.

Major Findings

While the P.L. 96-272 dispositional hearing requirement includes several specific components of court review, it is first of all a form of court review and must be considered within this overall context. In 1976, Claburn, Magura and Resnick conducted a national survey to determine the extent and types of foster care reviews operating.* They obtained results from 47 states and the District of Columbia and Puerto Rico. They found that only 16 states had either full or limited court review mandated by law and that 75 percent of these had been established since 1970. By 1978, when the Children's Defense Fund conducted a similar study, it was found that 21 states had legally mandated court review.

Between 1978 and 1980 there was a further increase in periodic court review. The Phase I study of case review systems found that when State representatives were asked in 1980 "whether judicial review of the cases of children in foster care is mandated in State statute and/or required by agency policy," only 15 States responded negatively.** It is important to note that, unlike the Claburn, Magura and Resnick study, the JWK study included manadates by law or policy and the court review referred to was not necessarily a periodic review. It is also important to note that judicial review alone cannot be equated with the P.L. 96-272 hearing components. Often, the judicial review procedure operating in some states required only that the agency file a report to the court at a certain date, without specification that actual hearings be held. Hearings were then held only on request of the judge or other interested parties. In some jurisdictions the judges would hold very frequent (sometimes 90-day) reviews for selected or all cases; in other jurisdictions actual review hearings rarely occurred. As P.L. 96-272 specifies that an actual hearing be held, in our study we distinguished court review, in which only a report to the court was actually completed, from actual court hearings.

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*Claburn, Eugene and Magura, Stephen and Resnick, William, "Periodic Review of Foster Care: A Brief National Assessment," Child Welfare, Vol. LV Number 6, 1976:397.

**JWK International Corporation, Comparative Study of State Case Review Systems, Task IV Report, 1982 Classification; 9-21.

Since the passage of P.L. 96-272, many States have made a significant effort to implement dispositional hearings. All but five States indicated they had a formal policy of holding a court hearing by at least the 18th month in care, and these five were in the process of evaluating policy in this area at the time of our survey.

However, only 66 percent (33 of the States in the survey) were able to report having such a policy and also estimate that 80 percent or more of the children in care 18 months or longer had actually had hearings by the time of our study. Of those having a policy to hold hearings by 18 months, 6 States reported they could not estimate the extent of implementation, and 6 reported that implementation was less than 80 percent. This reflects the fact that a number of States had only recently initiated the hearings for all children and were in a period of transition.

In fact, in order to implement the dispositional hearing, 75 percent of the States reported some modification of law or policy specifically designed to meet the dispositional hearing requirements was necessary.

States are in the process of transition in which significant changes in their review systems are being made. These changes reflect the impetus to establish multiple levels of foster care review and to incorporate dispositional hearings into their case review systems. This process has given rise to some major questions on how to make review effective and how to select the best review process for a particular State or local system.

Following is a summary of the status of States' implementation of dispositional hearing components and major issues that still need to be addressed.

State Statutes. Thirty States now have legal statutes mandating some form of court review within 18 months. Twelve of these States have actual statutory provisions requiring the court to choose one of several specific alternatives for the child's future status.

Presently there is a legal debate as to whether the dispositional hearing requirement of Federal law is binding on local courts without passage of State law provisions. Our study revealed that judges, referees and attorneys who were not familiar with P.L. 96-272 were usually familiar with the requirements of State law they worked with on a daily basis. This suggests that even if Federal law were binding, the relevant actors will not know about it unless it is also in State law. State laws are also needed to define the details of State procedures with regard to implementing the components of dispositional hearings (i.e., time frames, procedural safeguards).

Role of the Dispositional Hearing. P.L. 96-272 states that the dispositional hearing "shall determine the future status of the child." The law specifies that this may include, but not be limited to, whether the child should be returned home, placed for adoption, or remain in foster care for a specified period of time.

The language of the law has resulted in a wide variety of interpretations of the purpose of the hearings. One perspective, suggested by a review of the legislative history, views the dispositional hearing as a "fish or cut bait" situation, in which a decision is made concerning whether the child should be returned home or another permanent arrangement be made. In only certain special circumstances would the child be continued in nonpermanent foster care for a specified time.

An alternative interpretation is that the dispositional hearing is a point at which a critical look is taken at the child's current status and a special assessment made of permanent plans for the child. This interpretation stops short, however, of forcing a definite decision as to the direction permanent custody will take at that time. Still another view is that the dispositional hearing is simply a time when the court reviews the progress of the agencies' plan for the child.

It was clear from our study that in almost all States the hearing was viewed as being focused on the development of a permanent plan for each child in care. This was manifest in the fact that when respondents were asked "whether the hearing resulted in a decision on what should be the permanent plan for the child," 82 percent responded with an unqualified "yes." However, in most States this approach stopped short of being a definite decision point at which a specific alternative was chosen. Rather, it more closely resembled ensuring that there was some articulable and appropriate case plan goal at that time.

Generally, where there was a judicial or other foster care review system already established prior to passage of P.L. 96-272, it resembled a periodic review or often simply provided for extension of the foster care order for an additional year if "the original purposes for foster care had not yet been fulfilled." In general, these existing laws do not require a decision at a specific point in time about the child's permanent home from among specified "permanent placement" alternatives nor do they specifically require or authorize the court to take steps to see that the decision is implemented by the agency. Many States are continuing to use these reviews as their dispositional hearings.

A consensus needs to be reached between Federal, State and local officials as to the purpose and objective of the dispositional hearing as compared to such other existing review processes.

Who Conducts the Hearings. P.L. 96-272 specifies that the dispositional hearings may be conducted by a court or court appointed or approved body. In our survey, nine States reported ever utilizing court appointed or approved bodies for dispositional hearings and seven (14%) reported using such bodies "most frequently." Over two-thirds (72%) reported that a judge "most frequently" conducted the hearing. Only 8 percent reported a referee or master conducted the hearings more frequently or as frequently as the judge. Care needs to be taken to ensure that these bodies provide adequate due process protections. Systems that use court appointed or approved bodies to conduct dispositional hearings need to assign adequate authority to a decision maker in order to guarantee that the findings are carried out.

Definition of "Periodically Thereafter." P.L. 96-272 requires that hearings be held on a "periodic" basis after the first dispositional hearing held within 18 months, but does not specify the time frame. One concern has been that the States will not hold timely hearings ("periodically thereafter"). When asked how their State was defining "periodically thereafter", almost half (23) of the States reported they were requiring the subsequent hearing to occur by at least one year. Ten States required it by 6 months, 13 required it by 18 months, and 5 by 24 months. Eight States had not yet specified a time frame or the time frame varied by case.

Inclusiveness of the Hearings. Controversy over whether all children in care should be included exists within some States. Most respondents expressed the belief that all children, no matter what their status, should have a court review. However, certain respondents had questions as to whether, for example, children freed for adoption, or who were over a certain age, should be included. In addition, there were questions concerning cases in which all parties, including an outside review body, were in agreement on the permanent plan.

Due Process Procedures. In order to ascertain due process procedures used in conducting the hearings, judges were asked questions concerning legally mandated and commonly practiced due process procedures. Judges responded for their courtrooms and the results may indicate concepts of "best practice" rather than usual practice in the typical case. Their responses indicated that written notification to participants is given in almost all cases, with only two judges reporting this was not usually done. However, in some cases written notification was given only at the time of the previous hearing (i.e., possibly six months earlier). Case reports and statements of the possible results of the hearings were less frequently given to parties prior to the hearing. Only 22 percent of the judges reported an unqualified "yes" to providing a case report, and only 38 percent indicated that a statement of possible results was included in notification. When asked if those notified were required to attend, only seven States reported an unqualified "yes" to this question. Typically, only the agency representative is required to attend.

Appointment of counsel was reported to be legally mandated by 22 judges (44%) and another 20 judges (40%) reported a qualified "yes" to this question. The quality and quantity of legal representation of parties at the hearings varies greatly. There is a need to ensure that all parties have appropriate representation. Almost all (90%) reported that those present were given the opportunity to present and question witnesses and that there was the right to appeal. Eighty percent reported that a record was made of the proceedings, and 92 percent said that a written order resulted from the hearings. Often, however, this simply involved signing the report prepared by the agency.

When hearings are held, care needs to be taken to ensure that the rights of all concerned parties are protected (i.e., effective notification, right to be heard, record of the proceedings). Specific procedural safeguards applicable to dispositional hearings need to be more clearly defined by States. Parental participation in case review is unfamiliar and uncomfortable to many State agency staff as well as parents. Major efforts are still needed to ensure that parents are notified in a timely fashion and are aided in full participation in hearing proceedings.

Authority of the Hearings. Judges and agency respondents were also asked whether they believed the court had authority to order certain specific actions at the dispositional hearing. Over 90 percent of both judges and agency representatives believed that the court, in the context of the dispositional hearing, had the authority to order the agency to return a child to their parents to order certain services for the families, or to continue the child in foster care for a specified time or on a long-term basis. Fewer respondents believed that the court could order the agency to file for termination (46 percent of the judges and 80 percent of the agencies). Similarly only 54 percent of judges and 74 percent of agency respondents stated they believed the court had the authority to order the agency to take steps to place the child for adoption.

In general, as can be seen from the comparisons above, the judges viewed themselves as having less authority in the context of the hearings than did the agencies. There was only one exception to this. Seventy-four percent of the judges, compared to 64 percent of agency respondents, stated that they believed the hearing judge had the authority to order the agency to place the child with specific foster parents, relatives or in a specific residential placement. Several States have had court cases on this issue.

Major Implementation Problems. Respondents indicated that the major problems involved in implementing the hearings included an increase in workload and the absence of or conflict with existing State law. Specifically, respondents saw a need for more agency and court staff to prepare cases, hear cases, and to coordinate efforts between agency and court.

As court and agency interaction is becoming more interdependent, formal mechanisms to promote communication and coordination are necessary. Our study indicated that there were few mechanisms developed to promote the level of cooperation necessary between agencies and courts in order to fully implement the hearings. This impacted on such things as case scheduling, preparation for the hearings and holding timely in-depth review. Demonstration projects are recommended in this area.

Support for the Hearings. Despite some problems in achieving implementation of the hearings in a timely fashion, 96 percent of the agency representatives and 92 percent of the judges expressed the view that there was strong or moderate support for holding the hearings in their State. Similarly when respondents were asked whether they agreed or disagreed with the components of the P.L. 96-272 dispositional hearing requirement, over two-thirds agreed with each component of the requirement as contained in the law.

Policy Implications. When asked for recommendations, court and agency respondents stressed the need for training, funding and resources to be targeted toward preventing placement.

P.L. 96-272 creates new roles for many judges, lawyers, and social workers. Many respondents asked that technical assistance and training be made available from the Federal Government.

An effective dispositional hearing cannot be implemented in a vacuum. If beneficial permanent placement decisions are to be made, then adequate alternatives and an entire spectrum of services to prevent placement and work towards reunification must be available. Of special concern is the lack of permanent placement options for teenagers and physically or emotionally handicapped children. Many respondents also expressed concern over inadequate funds for commencing preventive and reunification service programs.

Many of the above mentioned concerns, such as training, legal representation, the development of coordination and implementation mechanisms, and adequate services, will require additional financial resources. Thus far, courts have had no funding made available to them for implementation of the hearings. This factor was repeatedly mentioned by respondents. It was noted that there was little motivation for courts to comply with the dispositional hearing requirements and processes unless additional resources were made available to help alleviate their increased workload.

Public Law 96-272 has provided the mandate to ensure movement for children in foster care into permanent situations rather than allowing children to remain in care indefinitely. The dispositional hearing is one aspect of a larger system of case management practices designed to achieve this goal. Preliminary findings of our survey indicate that States are developing policies and procedures to implement these hearings into their system.

During our study we found great support among all types of staff interviewed for both the concept and the practice of court based hearings to review foster care placements. It was also found, however, that there is still considerable confusion among both court and agency personnel regarding the specific objectives of the dispositional hearing requirement. Procedural variations among States do not in themselves appear to present a barrier to the implementation of the P.L. 96-272 requirements. Rather, it is the lack of clearly defined roles and responsibilities for the parties involved in conducting the hearings which could prevent the hearings from achieving the desired outcome.

1. INTRODUCTION

Under the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272), Congress outlined a case review system intended to help assure that child welfare agencies do not lose track of children under their care, that parental and child rights are protected, that agencies periodically report upon the progress made in implementing case plans, and that agencies direct their actions toward a permanent plan for every child in placement. This case review system includes three components:

- A case plan designed to achieve placement in the least restrictive (most family-like) setting.
- A semi-annual review by a court or administrative body which focuses on the continuing need and appropriateness of the placement, the extent of compliance with the case plan, the progress made toward alleviating the need for placement and a date by which the child may be returned to the home or placed for adoption or legal guardianship.
- A dispositional hearing conducted by a court, or an administrative body appointed or approved by the court, within 18 months of the child's placement and periodically thereafter which shall determine the future placement status of the child.

This report presents the preliminary findings of the Phase II Comparative Study of Case Review Systems, focused on the last of these components, the dispositional hearing requirement.

The study was conducted to address three major questions:

(1) What is the response of states to P.L. 96-272 with regard to dispositional hearings?

(2) How are dispositional hearings operating in the states?

(3) What are the advantages, problems and issues surrounding implementation of the hearings?

1.2 Study Methodology

To address these questions, a two-part study was conducted consisting of a national overview of the hearings in fifty states and Washington, D.C., and an in-depth study of the hearings in eight selected sites. A special feature of the study was collection of parallel information and opinions from both the court and agency perspective.

The primary sources of information for the national study were telephone interviews with the state foster care administrator and one judge from each state. Judges were selected from a list prepared by the National Association of Juvenile and Family Court Judges. The survey was conducted in March and April of 1983.* In addition, a statute review was conducted of applicable legislation for each state.

The in-depth study sites were chosen according to the differentiation in their case review systems. Six of the eight sites had been selected by JWK during the Phase I study and the two additional sites (Washington, D.C. and Arizona) were chosen when states from Phase I were unable to participate.** The sites chosen, classified according to the type of case review systems operating in 1981, are as follows:

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*Responses were obtained from all state administrators with the exception of Georgia.

**Three states, New Jersey, Illinois and Vermont, were unable to participate.

Exhibit 1-1. Participating states classified as to case review system

Agency Staff Beyond Caseworker/Supervisor Judicial Review	Professional Review Team/Caseworker/Supervisor Judicial Review	Citizens' Board: Caseworker/Supervisor Judicial Review	Six Months Judicial Review
Virginia	Montana	South Carolina	Louisiana
San Francisco Co.	North Dakota	Arizona	Washington, D.C.

Week-long site visits to the state office and three counties in each state were made by Westat and ABA study staff in February through April of 1983. The method of county selection was to stratify all counties based on size of foster care population into three groups (small, medium, large). One county from each size group was then randomly selected.** Interviews were held with an average of 30 court and agency respondents per state. In addition, 60 case records, per state, of children having had hearings were abstracted.

The data collection instruments for both parts of the study were designed to elicit information concerning the type of judicial review operating within the state and to specifically explore the state status with regard to the P.L. 96-272 dispositional hearing components. The instruments also address how hearings are currently operating and respondents opinions concerning the implementation and operation of the hearings. (Appendix C contains copies of the questionnaires used for the national telphone survey.)

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*In one state, hearings were being held only in certain counties, and, at agency request, these counties were selected to be visited. San Francisco was not randomly selected from among all the counties in California. It was pre-selected due to its participation in Phase I.

1.3 Limitation of the Telephone Survey

Before presentation of study results, certain limitations to the national study should be noted.

1.3.1 Respondent Selection

Both agency and court representative were selected either because of their perceived knowledge about hearing implementation or their official position as agency administrators. This was in order to serve the primary aims of the study to obtain descriptive information about hearing policy and implementation. In addition, however, the study asks certain opinion questions. These cannot be considered as in any way as a representative sample from each of the states. They do provide, however, an indication of the opinions of leaders whithin the states about the federal law and the hearings within their own states and jurisdictions.

1.3.2 Terminology Differences

Another limitation to the telephone survey stemmed from the difficulty involved in achieving a common language for referring to the hearings and hearing components. As the survey results will indicate, the term dispositional hearing as typically used in the states referred not to a subsequent review hearing or permanency planning hearing but to a hearing held much earlier, immediately following adjudication. Excerpts from the law were read to respondents and they were asked to respond about that hearing within their state or county that was closest to the one described in the law, but this did not totally solve the problem in all cases.

1.3.3 States in Transition

One factor that became very apparent was that most states were in a period of transition in which certain policies were being rapidly modified to meet P.L. 96-272. Our survey attempted to capture this, but state agency representatives often found it difficult to answer certain questions because legislative and policy changes were often pending or had only been recently modified.

1.3.4 Possible Overestimation of Compliance

Although it was stressed to state respondents that the purpose of this survey was not to evaluate the state's compliance with section 427 requirements, nevertheless states were aware of the required components and this may have biased answers toward more positive responses. This is especially so because many states are in the process of implementing the policy to meet the law.

1.4 Overview of the Reports

Volume I of this report presents results of the National Telephone Survey and the State Statute Review. Volume II presents case studies of eight selected states. Additional volumes to be completed as the final report, will present results of the questionnaire and record abstract analyses for the selected states, a more in-depth analysis of state statutes, and final conclusions of the study.

2. CURRENT STATUS OF THE STATES: STATE POLICY AND IMPLEMENTATION WITH REGARD TO HOLDING JUDICIAL REVIEW HEARINGS WITHIN 18 MONTHS

While the P.L. 96-272 dispositional hearing requirement specifies several specific components of court review, it is first of all a form of court review and must be considered within this overall context. Before consideration in Chapter 3 of the specific P.L. 96-272 components, this chapter presents an overview of the growth of judicial review nationwide and the current status of states as reported in the national telephone survey.

Exhibit 2-1 at the end of this chapter presents a state-by-state matrix which summarizes state policy with regard to judicial review and selected P.L. 96-272 dispositional hearing requirements based upon survey responses and 427 reviews.

2.1 The Spread of Judicial Review in the 1970's and 1980's

In 1976 Claburn, Magura and Resnick conducted a national survey to determine the extent and types of foster care review in operation. They obtained results from 47 states and the District of Columbia and Puerto Rico. They found that only 16 states had either full or limited court review mandated by law and that 75 percent of these had been established since 1970. By 1978, when the Childrens Defense Fund conducted a similar study they found that 21 states had legally mandated court review.

Between 1978 and 1980 there was a further increase in periodic court review. The Phase I study of case review systems found that when state representatives were asked in 1980 "whether judicial review of the cases of children in foster care is mandated in state statute and/or required by agency policy," only 15 states responded negatively. By 1982 the same study reported that no states responded negatively to this question (JWK International Corporation, Comparative Study of State Case Review Systems, Task IV Report, 1982 Classification; 9-21). It is important to note that unlike the Claburn, Magura, and Resnick study, the JWK study included mandates by law or policy. It is, also important to note that judicial review cannot be equated with meeting P.L. 96-272 hearing components. Often the procedure required only that the agency file a report to the court at a certain date without specification that actual hearings be held. These were then held only on request of the judge or other interested parties. In some jurisdictions the judges would hold very frequent (sometimes 90-day reviews) for certain or all cases, in others actual review hearings rarely occurred.

2.2 The Current Status of Court Review and Court Hearings

Similar to the JWK study we found almost no states reported in the survey that they had no form of court review mandated either by agency policy or legal mandate. (See Exhibit 2-1 at the end of this chapter for itemization of this on a state by state basis.)

In our categorization we distinguished court review, in which only a report to the court was actually completed from actual court hearings. Table 2-1 presents the usual time frame for court review reported and the usual earliest date that actual hearings were held by policy or legal mandate. From this table it can be seen that 62 percent (31 states) reported six months as the usual time frame for court review, but only 26 percent (13 states) reported holding actual hearings by six months. The largest percent (46) reported that a hearing was not held by policy until 18 months. Four states did not yet have a clear policy of holding hearings by a certain date, although in these states review hearings were often held within 18 months.

Table 2-1. Usual time frames for first court review and for first court hearing*

Usual time frame	Court review (N = 50)**		Court hearing (N = 50)**	
	Number	Percent	Number	Percent
By 6 months	31	(62)	13	(26)
By 12 months	8	(16)	9	(18)
By 18 months	7	(14)	23	(46)
By 20/24 months	1	(2)	1	(2)
Undecided/as needed/ upon request	3	(6)	4	(8)

* Review or hearing conducted by court or court appointed or approved body.
**N includes District of Columbia and all states but Georgia.

2.2.1 Implementation of Review Hearings

Table 2-1 indicates that almost all states indicated a policy of holding a court hearing by at least 18 months in care, however, for many states this was a policy only very recently established and not fully implemented. Table 2-2 presents estimates by the state agency administrator and by the judges interviewed of the percent of children currently in foster care 18 months who had had a court review hearing. Of those able to give an estimate, foster care administrators in nine states (20 percent of states) estimated that less than 80 percent of the children in care 18 months or longer had had hearings. Only four judges of the 50 estimated that less than 80 percent had had hearings. It should be noted that eight agency representatives and 12 judges were unable to provide this estimate.

Table 2-2. Estimate of percent of children in care 18 months or longer who have had a dispositional hearing: comparison of court and agency responses

Estimate of percent	Agency response (N = 42*)		Court response (N = 38*)	
	Number	Percent	Number	Percent
50 percent or less	5	(12)	4	(11)
51 - 79 percent	4	(8)	0	(0)
80 - 99 percent	9	(21)	3	(8)
100 percent	24	(57)	31	(82)

*Eight agency respondents and 12 court respondents were unable to give an estimate.

2.2.2 Summary of State Status on Policy and Implementation of Court Review Hearings Within 18 Months

Table 2-3 presents the number of states reporting a policy of attempting to hold judicial hearings by 18 months combined with the state agency representatives' estimates of implementation. Sixty-six percent of the states reported having a policy of holding a hearing by 18 months and that 80 percent of the children in foster care had had hearings. An additional 26 percent reported a policy of holding hearings but that implementation was either less than 80 percent or unknown. Five states (eight percent of the total) reported not yet having such a policy, and that implementation was below 80 percent or unknown. However, all but one of these states was in the process of drafting such a policy.

Table 2-3. Summary of state status on policy and implementation of court review hearings

Hearing policy and implementation	States reporting (N = 50*)	
	Number	Percent
In policy to hold by 18 months; report 80 percent implementation**	33	(66)
In policy to hold by 18 months; report less that 80 percent implementation	6	(12)
In policy to hold by 18 months; implementation unknown	6	(12)
Not clearly required in policy; implementation unknown or below 80 percent	5	(10)

* Includes District of Columbia and all states except Georgia.

**Of these, six states excluded children who already had TPR status and six states had some other categories excluded (see Section 3.2 for further discussion of exclusions).

2.3 Who Conducts the Hearings?

P.L. 96-272 specifies that the dispositional hearing must be conducted by a court or court appointed or approved body. Table 2-4 presents the persons or groups within the state ever conducting the hearings, and Table 2-5 the person or group most frequently conducting the hearings. Nine states reported ever utilizing a court appointed or approved body and seven states reported using this most frequently. Over two-thirds of the state (36) reported that the judge most frequently conducted the hearings.

Table 2-4. Person or group within the state conducting hearings

Person or group conducting the hearings (N = 50)	Number	Percent of total states
Judge	48	(96)
Master	5	(10)
Court referee/magistrate	18	(36)
Court appointed/approved body	9	(18)
Family court administrator	2	(4)

Table 2-5. Person or group within the state most frequently conducting the hearings

Person or group most frequently conducting the hearings (N = 50)	Number	Percent
Judge	36	(72)
Master	0	(0)
Court referee/magistrate	4	(8)
Court appointed/approved body	7	(14)
Court referee and judge	3	(6)

2.3.1 Comparison of Time Frames for Hearings by Who Conducts the Hearings

Tables 2-6 and 2-7 compare the time frames reported for the court reviews and hearings by whether a judge/referee or a court appointed or approved body conducts the hearing. As can be seen, there was little difference in the distribution of time frames reported by type of body conducting the hearings.

Table 2-6. Usual time frame for first court review by person/group conducting the hearing

Usual time for first court review	Person or group most frequently conducting the hearing					
	Judge/referee/ master (N = 43)		Court appointed or approved body (N = 7)		Total (N = 50)	
	Number	Percent	Number	Percent	Number	Percent
By 6 months	27	(62)	4	(57)	31	(62)
By 12 months	7	(16)	1	(14)	8	(16)
By 18 months	6	(14)	1	(14)	7	(14)
By 20 months	1	(2)	0	(0)	1	(2)
As needed	2	(5)	1	(14)	3	(6)

Table 2-7. Usual time frames for first court hearing by person/group conducting hearing

	Person or group most frequently conducting the hearing					
	Judge/referee/ master (N = 43)		Court appointed or approved body (N = 7)		Total (N = 50)	
Usual time for first court hearing	Number	Percent	Number	Percent	Number	Percent
By 6 months	11	(26)	2	(29)	13	(26)
By 12 months	8	(19)	1	(14)	9	(18)
By 18 months	20	(47)	4	(57)	24	(48)
By 24 months	1	(2)	0	(0)	1	(2)
Undecided/ upon request	3	(7)	0	(0)	3	(6)

2.3.2 The Composition of Review Boards

Table 2-8 presents the composition of the court bodies conducting reviews for those nine states reporting ever using court appointed or approved bodies. The most frequent combination was a body made up of citizens, outside professionals, and agency staff. Six of the nine bodies were actually appointed by the welfare agency and the agency was involved in the appointment of eight of the nine bodies.

Table 2-8. Review body membership and group or person appointing review body

Composition of review bodies
(N = 9)

	Number	Percent of total
Citizen only	1	(11)
Welfare agency staff	2	(22)
Citizen and agency	1	(11)
Citizens, outside professionals and agency staff	4	(44)
Outside professionals and agency staff	1	(11)

Group or person appointing review body
(N = 9)

	Number	Percent of total
Local judges	1	(11)
Welfare agency	6	(67)
Agency and judges	2	(22)

2.4 The Legal Mandate for Review Hearings

A recognized key element in statewide implementation of judicial review hearings is a legal mandate to hold the hearings. On the survey, 57 percent of states reported that judicial review hearings by at least 18 months were mandated by law (Table 2-9). In other states, hearings were held because the agency had a policy of petitioning the court for a hearing or because individual judges required hearings. Appendix B is a state-by-state summary of state statutes with regard to foster care reviews and selected P.L. 96-272 components.

Table 2-9. Number and percent of states reporting legal mandate for the hearings by 18 months by type of body conducting the hearings

	Person or group most frequently conducting the hearing					
	Judge/referee/ master (N = 42)		Court appointed or approved body (N = 7)		Total (N = 49)*	
Legal mandate	Number	Percent	Number	Percent	Number	Percent
Yes	25	(60)	3	(43)	28	(57)
No	13	(31)	4	(57)	17	(35)
Varies by status	2	(5)	0	(0)	2	(4)
Right to petition only	2	(5)	0	(0)	2	(4)

*One state was unable to answer this question.

Table 2-10 is a preliminary summary of these findings. This search found that about 30 states reported a legal mandate to hold hearings by 18 months either as a review or as necessary to extend foster care. The final report of this study will provide a more detailed analysis of state statutes in this area.

Table 2-10. Summary of statutory provisions on case review requirements

Case review requirement	Number of states
Administrative review* within child welfare agency	9
Administrative review* by group outside the agency	12
Written report to court by agency or review body	26[1]
Hearing available on motion of party	37[2]
Periodic judicial review or foster care extension hearing:	
not more than 6 months between hearings	13
not more than 12 months between hearings	11
not more than 18 months between hearings	7[3]
not more than 24 months between hearings	3
not more than 36 months between hearings	1
Permanency planning hearing (by court or court-appointed or approved body)	12
States with both periodic judicial review or foster care extension hearing and permanency planning hearings	11

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*For the purposes of this table, administrative review is not limited to the six month periodic review outlined in P.L. 96-272.

[1] Includes those states where report is not required but is discretionary at election of the court. For 6 states the written report coupled with a hearing available at the motion of a party is the only form of indicated judicial review. In two states only a report is required; there is no mention of any other form of judicial review. In the remaining 18 states the written report is coupled with periodic required judicial review.

[2] Five states whose only statutory provision for judicial review is hearing on motion of parties. For three of those states there is no other form of review required by statute. In two states there is an agency administrative review required.

[3] Includes one state where hearings are mandated at 20 month intervals.

Exhibit 2-1. State-by-state summary of judicial review and dispositional hearing characteristics as of April 1983*

	Usual time frame for court reviews**	Month by which first court hearing must be held	Is hearing by 18 months mandated by law?	Who conducts hearings?	Month in which hearings are held "periodically thereafter"	Who conducts "6-month periodic review"?	Comments/Relevant changes and exclusions
Alabama	18 by agency petition; earlier in some counties	18 by agency petition	No, done by agency policy	Usually judge; sometimes referee	24	Agency staff and one outside person, or court	In process of implementing hearings
Alaska	12	24 hearing to extend custody	Mandated at 24 months	Usually judge, sometimes referee	24	Agency committee with third party	In process of deciding how to implement the hearings
Arizona	6	12	Yes	Judge or master	12	Citizen review board	No policy changes necessary to implement hearings
Arkansas	6	6 by agency petition	No, review mandated, not hearing	Referee or county administrator	6	Court; closer monitoring after 18 months	TPR children come under authority of probate court which does not have the authority to conduct dispositional hearings
California	6	6 special permanency planning hearing at 12 or 18 months	Yes	Judge or magistrate	18	Court or agency administrative panel	State law amended to incorporate components of P.L. 96-272
Colorado	3 and 6 thereafter	3 and every 6 months thereafter	Yes	Judge	6	Court, use 4th hearing for dispositional	Developmentally disabled in voluntary placement may have court report review only

* Includes District of Columbia and all states except Georgia.
Information based on telephone interviews with agency respondents. Many states were in a process of transition in which policies were being amended at the time of the survey.

**Review: Earliest date at which agency usually provides report to court for review after initial plan is adopted.

Exhibit 2-1. State-by-state summary of judicial review and dispositional hearing characteristics as of April 1983* (Continued)

	Usual time frame for court reviews**	Month by which first court hearing must be held	Is hearing by 18 months mandated by law?	Who conducts hearings?	Month in which hearings are held "periodically thereafter"	Who conducts "6-month periodic review"?	Comments/Relevant changes and exclusions
Connecticut	6	18 to extend commitment	Yes	Judge	18	Agency administrative and case consultant	Law amended to change hearing from 24 to 18 months
Delaware	18	18	Yes	Family court administrator	18	Agency administrative and foster care review	System mandated 9/82; in process of implementing hearings
District of Columbia	6	6	Yes	Judge	12; special hearing at 24 months	Administrative with outside consultant	After two years some children have ex parte reviews at judge's discretion (10% of children)
Florida	6 1st year 12 thereafter	6 1st year 12 thereafter	Yes, doing since 1976	Judge	Varies by case under 13 at 6 months, over 18 at 24th month	3rd party agency administrative	Policy manual and one section of law excluded TPR children prior to 1983
Hawaii	6-12 by agency policy	18 by agency petition	No, legal custody given for up to 3 years	Judge	18 months	Not yet determined	In process of deciding how to implement hearings
Idaho	6 (neglect/abuse) 12 (youth rehab.)	12 18	Yes	Judge or court-approved body	12 (neglect/abuse) 18 (youth rehab.)	Agency staff not involved with case	Custody is given for one year; all children included by policy; TPR may have been excluded in some areas

* Includes District of Columbia and all states except Georgia.
Information based on telephone interviews with agency respondents. Many states were in a process of transition in which policies were being amended at the time of the survey.

**Review: Earliest date at which agency usually provides report to court for review after initial plan is adopted.

Exhibit 2-1. State-by-state summary of judicial review and dispositional hearing characteristics as of April 1983* (Continued)

	Usual time frame for court reviews**	Month by which first court hearing must be held	Is hearing by 18 months mandated by law?	Who conducts hearings?	Month in which hearings are held "periodically thereafter"	Who conducts "6-month periodic review"?	Comments/Relevent changes and exclusions
Illinois	6	18	Yes	Judge	18	Impartial administrator	Law amended to change hearing to date from 24 to 18 months
Indiana	12	12 from initial dispositional hearing; 18 from placement, agency will petition if not yet had hearing	Yes	Judge	18	Court or panel reviews	In process of transition; legislation pending
Iowa	6	6 outside home	Yes	Judge, sometimes magistrate	6	Agency interdisciplinary panel or court	In process of implementing hearings; all children included by policy; TPR may have been excluded in some areas
Kansas	6	6	Yes	Court approved interdisciplinary panel; judge only when controversy	6	Court	Recent legislation to establish interdisciplinary panel decision as binding

* Includes District of Columbia and all states except Georgia.
Information based on telephone interviews with agency respondents. Many states were in a process of transition in which policies were being amended at the time of the survey.

**Review: Earliest date at which agency usually provides report to court for review after initial plan is adopted.

Exhibit 2-1. State-by-state summary of judicial review and dispositional hearing characteristics as of April 1983* (Continued)

	Usual time frame for court reviews**	Month by which first court hearing must be held	Is hearing by 18 months mandated by law?	Who conducts hearings?	Month in which hearings are held "periodically thereafter"	Who conducts "6-month periodic review"?	Comments/Relevant changes and exclusions
Kentucky	18 (must have by law, sometimes much earlier)	18	No	Usually court appointed body; sometimes judge	12	Court or court appointed body	Judge must ratify decision by appointed body if agency disagreement
Louisiana	6	Not yet decided, some urban parishes hold by 6 months or earlier	No (only report mandated)	Judge	Not yet decided	Not yet decided; now holding team conferences, all parties notified	Hearing occurs at court discretion; geographic variation
Maine	18	Within 18 months of final protection order by state law; agency petitioning by 18 months of placement	Yes	Judge	18	Agency administrative body	Legislation pending to shorten time of hearing process
Maryland	18	18 (sooner in some counties)	No	Judge or master	18	Citizen review board	In process of implementing hearings; long term foster care cases with special legal status are excluded

* Includes District of Columbia and all states except Georgia.
Information based on telephone interviews with agency respondents. Many states were in a process of transition in which policies were being amended at the time of the survey.

**Review: Earliest date at which agency usually provides report to court for review after initial plan is adopted.

Exhibit 2-1. State-by-state summary of judicial review and dispositional hearing characteristics as of April 1983* (Continued)

	Usual time frame for court reviews**	Month by which first court hearing must be held	Is hearing by 18 months mandated by law?	Who conducts hearings?	Month in which hearings are held "periodically thereafter"	Who conducts "6-month periodic review"?	Comments/Relevant changes and exclusions
Massachusetts	6	Upon request	Right to petition mandated;	Judge	Varies by case	Agency administrative	Policy in transition; Parties can request hearing at time of judicial review
Michigan	6	6	Yes	Judge/ magistrate (neglect/ abuse) parole board (delinquent)	6	Court; citizen review boards in pilot counties	Abuse/neglect cases can be state wards or court wards; reviews of state wards conducted by administrative body
Minnesota	12 to continue custody	12 by agency petition court order; 18 voluntary	New court rule will require review every 6 months	Judge	12 (court ordered) 24 (voluntary)	Agency administrative panel	Court orders limited to 12 months; hearings at judge's discretion unless agency petitions
Mississippi	6	18 by agency request, earlier at judge's discretion	No, only review mandated	Court appointed body usually judge/ magistrate sometimes	12	Citizen board	In process of implementing hearings

* Includes District of Columbia and all states except Georgia.
Information based on telephone interviews with agency respondents. Many states were in a process of transition in which policies were being amended at the time of the survey.

**Review: Earliest date at which agency usually provides report to court for review after initial plan is adopted.

Exhibit 2-1. State-by-state summary of judicial review and dispositional hearing characteristics as of April 1983* (Continued)

	Usual time frame for court reviews**	Month by which first court hearing must be held	Is hearing by 18 months mandated by law?	Who conducts hearings?	Month in which hearings are held "periodically thereafter"	Who conducts "6-month periodic review"?	Comments/Relevant changes and exclusions
Missouri	6 (informal)	18	Required by Supreme Court ruling	Judge	12	Permanency planning review team	Hearings implemented August 1982
Montana	6	6	Yes	Court appointed administrative body; judge involved only in disputes	6	Court appointed administrative body	Legislation passed in October '81 to establish Foster Care Review Boards (court appointed) to conduct hearings
Nebraska	Within 12 months; 6 months thereafter	12	No, only reviews mandated to continue custody	Judge	6	Court	6 month periodicity by court became law 7/82; TPR not excluded by policy sometimes may have been excluded in practice
Nevada	6	18	Yes	Judge	12	Court or agency with citizen participation	Six month court review held at court discretion
New Hampshire	12	12	Yes for abuse/neglect; agency petitions for other cases	Judge	12	Agency administrative with third party	Permanent long-term foster care cases in which TPR proceedings are underway are excluded

* Includes District of Columbia and all states except Georgia.
Information based on telephone interviews with agency respondents. Many states were in a process of transition in which policies were being amended at the time of the survey.

Exhibit 2-1. State-by-state summary of judicial review and dispositional hearing characteristics as of April 1983* (Continued)

	Usual time frame for court reviews**	Month by which first court hearing must be held	Is hearing by 18 months mandated by law?	Who conducts hearings?	Month in which hearings are held "periodically thereafter"	Who conducts "6-month periodic review"?	Comments/Relevant changes and exclusions
New Jersey	12	12	Yes	Court appointed citizen review boards; judges must ratify decisions	12	Internal review system	Judges must ratify board decisions
New Mexico	6	6	Yes	Usually judge, sometimes court master or referee	6	Court	Permanent long-term foster care cases and Indian children not covered by state court system are excluded
New York	12	18	Yes	Judge	12 24 (voluntary cases)	Caseworker, supervisor, and third party	Legislation pending to ensure hearing petition is filed 2 months before due date
North Carolina	6 and 12 months thereafter	6	Yes	Judge	12	Court, certain hearings take more assertive action	Legislation pending to mandate court hearings for voluntary cases; those aged 18 to 21 are excluded
North Dakota	As needed	18	Yes	Judge or magistrate	18	Permanency planning committee	Laws amended to change hearing date from 24 to 18 months

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* Includes District of Columbia and all states except Georgia.
Information based on telephone interviews with agency respondents. Many states were in a process of transition in which policies were being amended at the time of the survey.

**Review: Earliest date at which agency usually provides report to court for review after initial plan is adopted.

Exhibit 2-1. State-by-state summary of judicial review and dispositional hearing characteristics as of April 1983* (Continued)

	Usual time frame for court reviews**	Month by which first court hearing must be held	Is hearing by 18 months mandated by law?	Who conducts hearings?	Month in which hearings are held "periodically thereafter"	Who conducts "6-month periodic review"?	Comments/Relevant changes and exclusions
Ohio	6, 12 months thereafter	18	No, mandated by Administrative Code, Rules of Juvenile Procedure	Judge or court referee	18	Third party administrative review	18 month hearing mandated January '83
Oklahoma	6	12	Yes	Judge	12	Foster care citizen review board	Legislation passed 10/82 to mandate annual hearing
Oregon	6, 12 months thereafter	18 by agency petition	No, only right to petition	Court appointed body or judge, varies by county	24	Administrative panel or court	Agency petitions court at 18 months if earlier hearing has not taken place
Pennsylvania	6-12-18 and annually thereafter	18 by agency petition	No, agency regulation	Judge usually; sometimes master	12	Varies, can be conducted by court or agency administrative	Not yet self certified, but holding hearings
Rhode Island	6	12	Yes	Judge	12	3rd party agency administrative	No policy changes necessary to implement hearings
South Carolina	At judge's discretion	18 by agency petition	No, legislation pending	Judge	24	citizen review board	In process of implementing hearings

* Includes District of Columbia and all states except Georgia.
Information based on telephone interviews with agency respondents. Many states were in a process of transition in which policies were being amended at the time of the survey.

**Review: Earliest date at which agency usually provides report to court for review after initial plan is adopted.

Exhibit 2-1. State-by-state summary of judicial review and dispositional hearing characteristics as of April 1983* (Continued)

	Usual time frame for court reviews**	Month by which first court hearing must be held	Is hearing by 18 months mandated by law?	Who conducts hearings?	Month in which hearings are held "periodically thereafter"	Who conducts "6-month periodic review"?	Comments/Relevant changes and exclusions
South Dakota	6	18 or earlier by judges discretion	Yes, amendments pending	Judge	Not yet decided	Agency administrative review team or court	Permanent long-term foster care cases; hearings held periodically thereafter by practice, not yet mandated by law
Tennessee	6	18 by agency petition	No, legislation pending	Judge, sometimes review board	18 for most; 36 for long term foster care cases	Citizen review board	Have a two level periodicity hearing system
Texas	6	6	Yes	Judge	6	Court	Annual report to court may trigger another hearing
Utah	6	18 by agency petition	Yes, as of July '83	Judge	18	Court; notification for hearing, not for review	Changed hearings from 24 to 18 months
Vermont	18	18	Yes	Judge	18	Administrative panel includes everyone but judge	Periodicity changed from 24 to 18 months in 1981; cases in which TPR occurred and no longer under court jurisdiction are excluded
Virginia	Service plan within 60 days; 18 months thereafter	18	Yes, used to be annual report; law changed to comply	Judge	12	Administrative with all parties and outside	Currently working on old cases; petition for hearing must be filed at 16 months

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* Includes District of Columbia and all states except Georgia.
Information based on telephone interviews with agency respondents. Many states were in a process of transition in which policies were being amended at the time of the survey.

**Review: Earliest date at which agency usually provides report to court for review after initial plan is adopted.

Exhibit 2-1. State-by-state summary of judicial review and dispositional hearing characteristics as of April 1983* (Continued)

	Usual time frame for court reviews**	Month by which first court hearing must be held	Is hearing by 18 months mandated by law?	Who conducts hearings?	Month in which hearings are held "periodically thereafter"	Who conducts "6-month periodic review"?	Comments/Relevant changes and exclusions
Washington	6	6	Yes	Judge	6	Court	In some counties if all notified and all agree, hearing is waived
West Virginia	20	At agency request	No, right to petition mandated	Judge	18	Agency administrative	Permanent long-term foster care cases excluded
Wisconsin	12	12	Yes	Judge	12	Judges, review panels, some citizen review boards	Dispositional order as result of hearings good for one year
Wyoming	6 by agency policy	18 by agency petition	No	Court appointed body, results go to judge	6	Court appointed body	Recently implemented requirement for court review of administrative review

* Includes District of Columbia and all states except Georgia.
Information based on telephone interviews with agency respondents. Many states were in a process of transition in which policies were being amended at the time of the survey.

**Review: Earliest date at which agency usually provides report to court for review after initial plan is adopted.

3. STATE STATUS, CHANGE AND SUPPORT FOR INDIVIDUAL COMPONENTS OF THE P.L. 96-272 DISPOSITIONAL HEARING REQUIREMENT

Chapter 2 has presented an overview of state status with regard to policy and implementation of judicial review hearings within 18 months in care. However, it has not examined state status with regard to specific individual P.L. 96-272 components.

In order to gain a more complete look at the status of the states and to ascertain what states have been required to do to meet the dispositional hearing requirement, the language of the law was broken down into several components. Judicial review in the past and currently in the states may meet one aspect of the law without meeting all aspects. The components examined were:

- That a hearing be held by a court or court appointed body;
- That it take place within 18 months;
- That the hearing be held for all children in foster care;
- That the hearings be held "periodically thereafter" for those remaining in care;
- That the hearing result in a decision on the future status of the child as to whether the child should return home, be freed for adoption, have permanent foster care or remain in foster care for a specified time; and
- That the hearing procedings include procedural safeguards.

3.1 Implementation and Change in Response to P.L. 96-272 Specific Components

Each state foster care administrative representative was asked to report his or her best estimate of the extent to which the state's policy and implementation currently met each of the components and then to report on whether this was so prior to 1980. They were then asked whether each of the components was implemented in response to the law. Table 3-1 presents the results of the question and Table 3-2 graphically represents the changes states reported since 1980. As reported by the state administrators, P.L. 96-272 has had a large impact on the 50 states. Seventy-five percent of the states reported implementing change in at least one component in response to P.L. 96-272 and almost 40 percent reported implementation of five or six components. Only 14 states reported all components listed in place prior to 1980, and only 12 states reported none of the components listed implemented in response to the law.

Similarly, when asked what their state had done to meet the P.L. 96-272 components, 72 percent stated they had modified either law or policy (Table 3-3). Thirty-one percent (15 states) had amended legislation, and two states had legislation pending.

3.2 Exclusions to the Hearings

As seen in Tables 3-1 and 3-2, the component reported least, implemented prior to 1980, was that requiring hearings for all children in care 18 months. This was also the component least unqualifiably reported currently in place, with only 66 percent of states giving an unqualified "yes." This reflected both policy exclusions and implementation problems.

Table 3-1. State response to six P.L. 96-272 dispositional hearing components: comparison 1980 to present

P.L. 96-272 dispositional hearing components	Current status (N = 50) Percent responding Yes	Current status (N = 50) Percent responding Qualified Yes*	Status prior to 1980 (N = 50) Percent responding Yes	Was the component implemented response to the law (N = 50) Percent responding Yes
1. Is there a hearing under a court or a court approved or appointed body?	98	2	58	42
2. Does the hearing take place within 18 months of original placement?	86	12	37	58
3. Are the hearings held for all children in care 18 months or longer under agency supervision?	66	26	24	63
4. Are the hearings held periodically thereafter as long as the child remains in care?	74	26	44	54
5. Does the hearing result in a decision on what should be the future status/permanent plan?	82	8	46	47
6. Do the hearing proceedings include procedural safeguards?	98	2	68	35

*Indicates not yet implemented, or that there are some exclusions/exceptions.

Number of components reported implemented in response to the law and number in place prior to 1980

Number of components	Components implemented in response to the law (N = 49) Number	Components implemented in response to the law (N = 49) Percent	Components implemented prior to 1980 (N = 49) Number	Components implemented prior to 1980 (N = 49) Percent
0	12	(25)	14	(29)
1-2	9	(18)	10	(20)
3-4	9	(18)	11	(22)
5-6	19	(39)	14	(29)

Table 3-2. Reported state response to P.L. 96-272 dispositional hearing components: comparison present to 1980 status

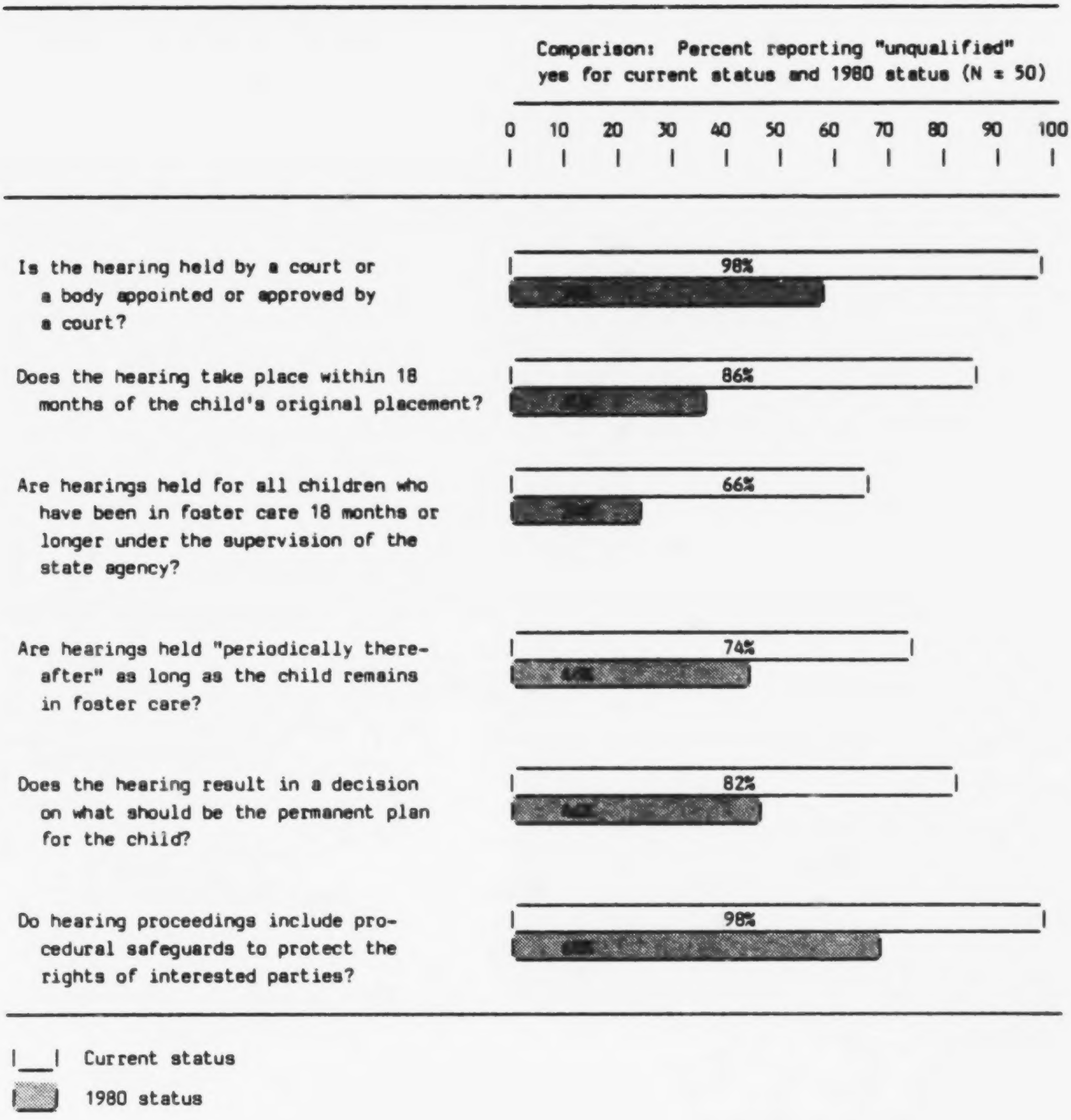

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Table 3-3. Change in law and policy by states to meet P.L. 96-272 dispositional hearing requirements by person or group conducting the hearing

How state met P.L. 96-272 dispositional hearing requirements	Person or group most frequently conducting the hearing					
	Judge/referee/ master (N = 42)		Court appointed or approved body (N = 7)		Total (N = 49)*	
	Number	Percent	Number	Percent	Number	Percent
Existing procedure used: no change in legislation	9	(21)	1	(14)	10	(20)
Existing procedure modified: no change in legislation	15	(36)	3	(43)	18	(37)
New legislation passed to create new hearing procedure	12	(29)	3	(43)	15	(31)
New hearing procedure created without new legislation	2	(5)	0	(0)	2	(4)
Changes are pending in legislation	2	(5)	0	(0)	2	(4)
Not yet determined	2	(5)	0	(0)	2	(4)

*One state was unable to answer this question.

The language of P.L. 96-272 states that all children must have had a dispositional hearing by their 18th month in care. Subsequent policy decisions have, however, allowed the exception of certain permanent foster care cases in which formal agreements with foster parents have been enacted. Cases in which unfinalized adoptive placement has occurred have also been excluded, and it has been ruled that termination hearings occurring within 18 months can be considered to meet the 18-month hearing requirement. However, a policy decision was made that cases in which parental rights have been terminated but no adoption has occurred must be included in the hearings. Agency respondents were asked whether certain types of these cases were currently included in review hearings, and whether this was so prior to 1980. Table 3-4 presents these results.

Table 3-4. Children reported included in dispositional hearing proceedings: comparison current and 1980

Types of cases included in hearing proceedings	Number and percent included in hearings			
	Present (N = 50)		Prior to 1980 (N = 50)	
	Number	Percent	Number	Percent
Cases in which proceedings to terminate parental rights are underway	46	(92)	32	(64)
Cases in which parental rights have already been terminated	38	(76)	18	(36)
Permanent/long term foster care cases	43	(86)	25	(50)
Voluntary care placement cases*	42	(84)	27	(54)

*Includes states including children in hearings or states in which it is not possible for a child to be in voluntary care 18 months.

That category least frequently reported as included in the hearings were cases in which parental rights had already been terminated with only 76 percent reporting current inclusion of these cases and 36 percent reporting inclusion in the hearings prior to 1980. Almost all states (92%) reported including cases in which proceedings to terminate parental rights were still underway, and 86 percent reported inclusion of permanent/long-term foster care cases.

Another possible form of exclusion from hearings is the holding of paper reviews in which the agency sends only a report to the court for review. Respondents were asked if there were any cases in which only this form of review had been held. Table 3-5 gives the estimated percent of children reported by each state for whom only a "paper review" had been conducted. It should be noted that included in the over 50 percent category are certain states in which hearings have not yet been implemented but court review is occurring for most children.

Table 3-5. Percent of children reported by each state for whom only a review of the agency report or other documentation is conducted by court instead of a hearing

	(N = 48*)	
	Number	Percent
None	34	(71)
1-10 percent	9	(19)
10-50	2	(4)
Over 50	3	(6)

*Two states were unable to answer this question.

Respondents reported that categories of children for which paper reviews might occur included cases in which the parents agreed with and had signed the case plan, permanent foster care cases, cases before certain judges who requested this form of review, young children awaiting adoption, developmentally disabled children, and cases in which parental rights had been terminated.

3.3 The Definition of "Periodically Thereafter"

As indicated in Table 3-1, 74 percent of states responded yes to the question of holding hearings "periodically thereafter" and almost all states reported at least a qualified yes to this question. Since P.L. 96-272 requires that hearings be held on a "periodic" basis after the hearing within 18 months but does not specify the time frame, one concern has been that the states will not hold timely "periodically thereafter" hearings. Table 3-6 summarizes the results of the question asking state agency representatives how their state was defining "periodically thereafter" for the purpose of meeting P.L. 96-272. The responses indicate that almost half were requiring it to occur by at least one year, 13 states by 18 months, and five states by 24 months after the dispositional hearing. Eight states reported variation by case or were as yet undecided.

Table 3-6. State agencies' P.L. 96-272 definition of hearings held "periodically thereafter," by person or group conducting the hearing

Time frame after dispositional hearing	Person or group most frequently conducting the hearing					
	Judge/referee/ master (N = 42)		Court appointed or approved body (N = 7)		Total (N = 49)*	
	Number	Percent	Number	Percent	Number	Percent
6 months	7	(16)	3	(43)	10	(20)
12 months	10	(23)	3	(43)	13	(27)
18 months	13	(30)	0	(0)	13	(27)
24 months	4	(9)	1	(14)	5	(10)
Varies by case/ undecided	8	(19)	0	(0)	8	(16)

*One state was unable to answer this question.

3.4 Definition of "Original Placement"

P.L. 96-272 states that the dispositional hearing must be held within 18 months of "original placement," and subsequent policy directives have defined this to mean the date the child is initially taken into foster care or re-enters care. However, most state laws that mandate court review specify that court review must take place within a certain period after certain court proceedings rather than initial placement in care. Table 3-7 summarizes the results of asking agency administrators how the state agency was currently defining "original placement."

Table 3-7. State agencies' P.L. 96-272 definition of "original placement" by person or group conducting the hearing

Date used to define "original placement"	Person or group most frequently conducting the hearing					
	Judge/referee/ master (N = 42)		Court appointed or approved body (N = 7)		Total (N = 49)*	
	Number	Percent	Number	Percent	Number	Percent
Date child placed in foster care	28	(65)	6	(86)	34	(69)
Date of initial hearing	4	(9)	0	(0)	4	(8)
Date child is adjudicated	5	(12)	0	(0)	5	(10)
Varies by case	5	(12)	1	(14)	6	(12)

*One state was unable to answer this question.

3.5 Name of the Hearings

One source of some confusion has been the law's use of the term "dispositional hearing." In many states this is the term used to refer to a hearing held immediately following or shortly after adjudication, to decide initial placement. In order to ascertain what states were themselves calling the hearing, judges and agency administrators were asked what they called the hearing closest to that required by P.L. 96-272. Table 3-8 compares judge and agency responses. Judges most frequently (66%) used the term "judicial review hearing," while state agency foster care administrators most frequently (44%) were using the term "dispositional hearings." However, 56 percent of the agency administrators and 92 percent of the judges did not use the term "dispositional hearings."

Table 3-8. Name of hearing identified as meeting P.L. 96-272 requirement: comparison of court and agency responses

Name of hearing	Agency response (N = 50)		Court response (N = 50)	
	Number	Percent	Number	Percent
Dispositional hearing	22	(44)	6	(12)
Judicial review hearing	15	(30)	33	(66)
Permanency planning hearing	3	(6)	1	(2)
18 month hearing	1	(2)	3	(6)
Review board hearing	1	(2)	2	(4)
Other	8	(16)	5	(10)

3.6 Support for the Hearings

Despite the fact that the dispositional hearing requirement has been one which has required considerable change in states, and is one which had involved some controversy with regard to certain eligibility questions, both judges and agency representative respondents expressed very high levels of support for holding the hearings. Ninety-six percent of the agency administrators and 92 percent of the judges reported that there was either strong or moderate support for holding the hearings apart from the federal requirement. Moreover, 70 percent of agency administrators and 72 percent of judges expressed strong support. Table 3-9 presents these responses.

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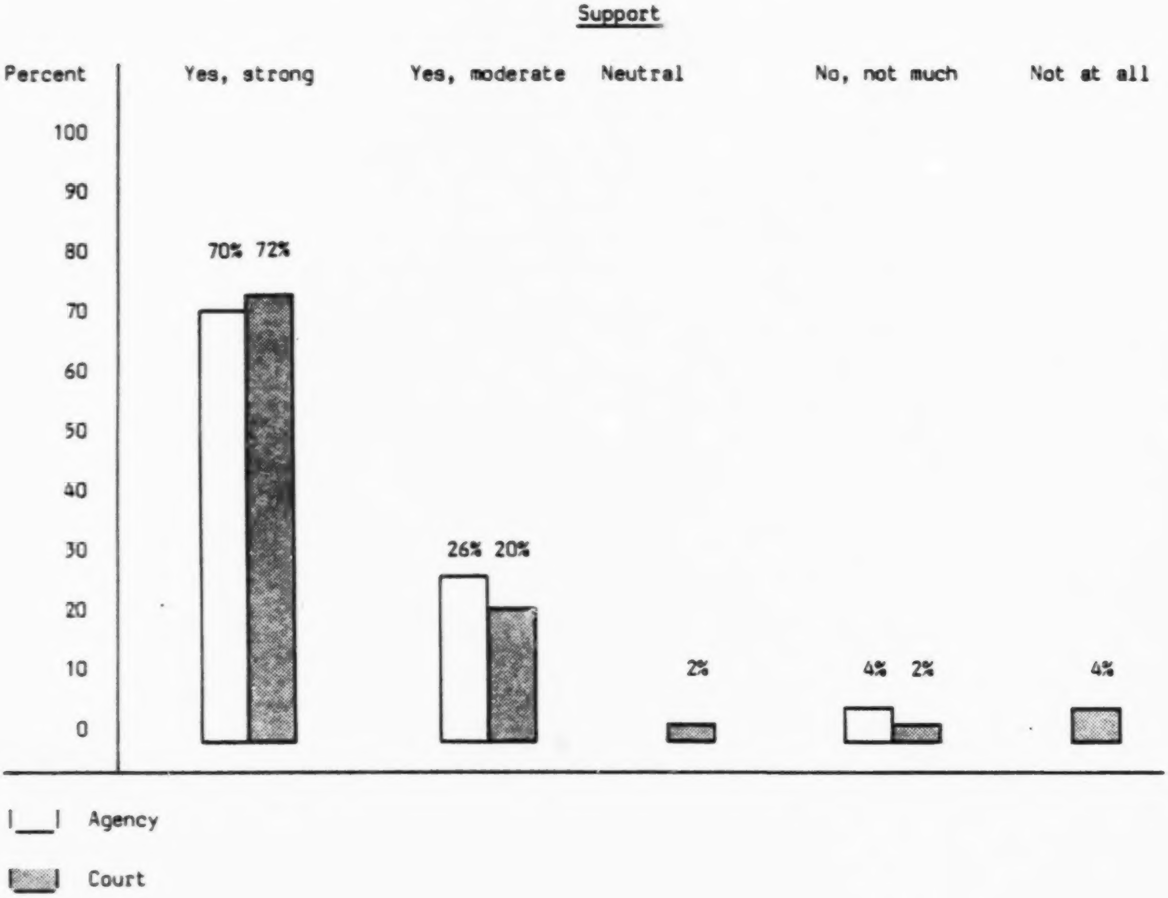
Table 3-9. Support for holding the hearings: comparison of agency and court responses

Question: Apart from the Federal law, would you say that there is support in your agency/court for conducting the hearings?

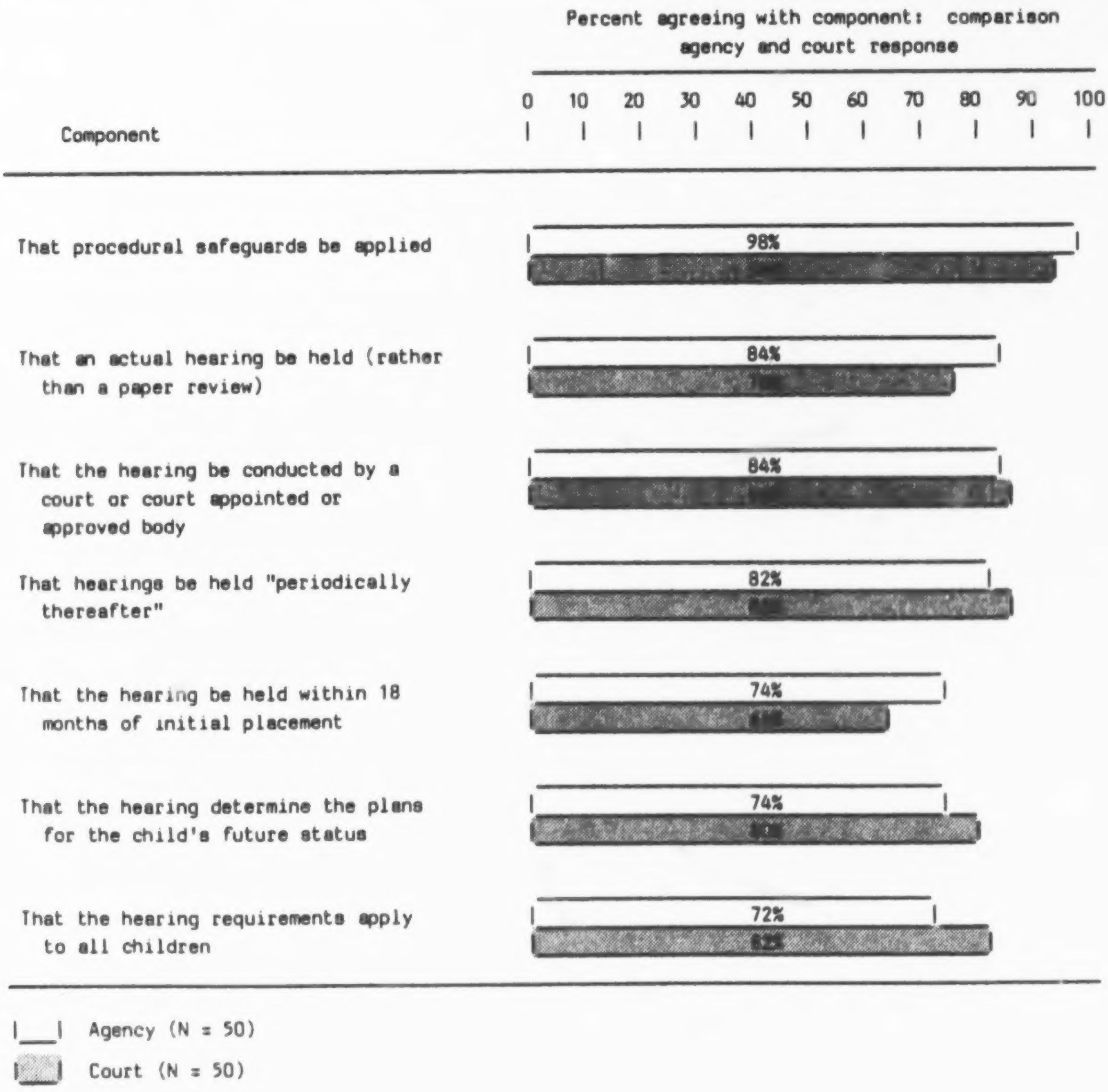


	Agency response (N = 50)		Court response (N = 50)	
Support	Number	Percent	Number	Percent
Yes, strong	35	(70)	36	(72)
Yes, moderate	13	(26)	10	(20)
Neutral	0	(0)	1	(2)
Not much	2	(4)	1	(2)
Not at all	0	(0)	2	(4)

3.7 Agreement/Disagreement with Specific P.L. 96-272 Hearing Components

In order to obtain further input into reaction to the dispositional hearing requirements, court and agency respondents were asked whether they agreed with seven specific components of the P.L. 96-272 dispositional hearing requirements. Table 3-10 compares court and agency responses. Over 60 percent of all respondents agreed with each of the components listed. Highest agreement was expressed for the application of procedural safeguards, with 98 percent of agency administrators and 94 percent of judges agreeing with this very generally expressed component. Judges least frequently expressed agreement with the component "that the hearing be held within 18 months of placement" (64% agreed). This was not, however, because they objected to requiring a hearing within 18 months, but more often they stated that this was too long a time frame to wait for review of establishing a permanent plan. Agency administrators least frequently agreed (72%) with the component requiring hearings be held for all children in care. An almost similar number of agency administrators (74%) expressed agreement that the hearing should determine the plans for the child's future status. This component was supported by a somewhat larger percentage of judges (80%). This should not be interpreted to mean that they meant to agree with the concept that an actual decision on the child's future and ordering it carried out must be made. (See Chapter 7 for further discussion of this issue.)

Table 3-10. Percent of respondents agreeing with each component of the P.L. 96-272 dispositional hearing components: comparison agency and court responses



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Respondents who disagreed with at least one component were then asked for the reason why. A summary of reasons mentioned by judges and state agency administrators is presented in Table 3-11. Reasons mentioned most frequently were that hearings were not always necessary for all children and the time frame of 18 months was too long to wait. Several agency administrators disagreed that the court should actually determine the plan for the child. A few respondents did not think that the law should allow the hearings to be held by a court appointed or approved body, rather they stated that only the court should be mandated to hold the hearings.

Table 3-11. Reason for disagreement with one or more components: comparison agency and court

Reasons mentioned for disagreement	Number and percent of respondents mentioning as 1st or 2nd reason for disagreement with a component			
	Agency response (N = 28)		Court response (N = 26)	
	Number	Percent of those responding	Number	Percent of those responding
Hearings are not always necessary/ there should be exceptions	18	(64)	11	(42)
Time frame too long/needs to be case specific	9	(32)	15	(58)
Court should not determine the plan	8	(29)	3	(12)
Hearings should be held by the court only	2	(7)	4	(15)
Agency should be mandated directly by law	2	(7)	1	(4)
Some due process safeguards are not necessary	2	(7)	1	(4)

4. PERIODIC REVIEWS AND OTHER REVIEW PROCEDURES

This chapter will provide an overview of the extent to which periodic reviews and other nonjudicial review procedures are occurring throughout the country in relation to the two-tiered case review system outlined by P.L. 96-272. This system called for:

- A semi-annual review by a court or administrative body which focuses on the continuing need and appropriateness of the placement, the extent of compliance with the case plan, the progress made toward alleviating the need for placement, and a date by which the child may be returned to the home or placed for adoption or legal guardianship.
- A dispositional hearing conducted by a court or an administrative body appointed or approved by the court within 18 months of the child's placement and periodically thereafter which focuses on determining the future status of the child.

4.1 The Difference Between Periodic Reviews and Dispositional Hearings

Chapters 2 and 3 provided an overview of how states are defining and implementing the dispositional hearing requirement of the law. In order to complete the understanding of how states are approaching the implementation of a two-tiered case review system, respondents were asked to explain the type of semi-annual (periodic) review that was held in their state. The responses have been divided into four categories, based on the primary organizational body conducting the review:

- Court or court appointed/approved body: The states included in this category are those states in which the court or court appointed/approved body who conducts the dispositional hearing, also conducts the periodic review. (This category does not include states in which the court or court appointed/approved body is one of several ways in which the periodic review may be conducted.

- Agency administrative body: The states included in this category are those states in which the periodic review is conducted by a person or group of people selected by the agency. There is a great deal of variation in the composition of these organizational bodies ranging from internal agency staff with one person not involved in the particular case, to agency staff plus outside consultants, to interdisciplinary panels.
- Citizen review boards: This category includes states who have designated their citizen review boards responsible for conducting periodic reviews. If the citizen review board in a state also conducts the dispositional hearing, they would not be included in this category but in the first category.
- Combination: This category includes states that have a combination of the three types of bodies listed above conducting the periodic review. This combination may have been implemented because of variation between counties in a state, overloaded court dockets, or variation in case types.

Table 4-1 denotes the percentage of states by primary organizational body with responsibility for conducting periodic reviews.

Table 4-1. Frequency of states by primary organizational body with responsibility for conducting periodic review

Who conducts	(N = 50) Number	(N = 50) Percent
Agency administrative	20	(40)
Court or court approved/appointed body	13	(26)
Combination	11	(22)
Citizen review board	5	(10)
Not yet determined	1	(2)

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Exhibit 4-1 provides a listing of the states by the organizational body responsible for conducting the periodic review. Forty-nine states have indicated they have a periodic review, with the greatest number of periodic reviews conducted by agency administrative bodies.

The federal law allows for the same organizational body to conduct periodic reviews that conducts the dispositional hearing as long as the review is conducted within six months and addresses the criteria outlined in the law. Thirty-one states (Table 2-7) reported having their first court contact by six months and 18 of these states indicated that court or court appointed/approved bodies conduct periodic reviews on a part or full time basis. Fifty-eight percent of the states who have court involvement in case decisions by six months have chosen to utilize the courts in conducting periodic reviews.

Agency respondents were then asked whether or not they perceived a difference between the purpose of the periodic review and the purpose of the dispositional hearing. Table 4-2 denotes this breakdown.

Table 4-2. Frequency of agency responses regarding whether or not the purpose of the periodic review is different from the dispositional hearing

Similarity of the purpose of the dispositional hearing to periodic review	(N = 50)	
	Number	Percent
Purpose of the dispositional hearing is different than the periodic review	24	(48)
Purpose of the dispositional hearing is the same as the periodic review	25	(50)
Purpose varies by case	1	(2)

The 25 respondents stating that the purpose of the dispositional hearing and the periodic review is the same includes seven respondents who indicated in Question 3E of the State Child Welfare Agency Questionnaire (Appendix C) that there was

Exhibit 4-1. Listing of states by primary organizational bodies responsible for conducting periodic reviews*

A Court or court appointed/approved body	B Agency administrative body	C Citizen review board	D Combination
Arkansas	Alaska	Arizona	Alabama (A, B)
Colorado	Connecticut	Maryland	California (A, B)
Kansas	District of Columbia	Oklahoma	Delaware (B, C)
Kentucky **	Florida	South Carolina	Indiana (A, B)
Mississippi	Idaho	Tennessee	Iowa (A, B)
Montana **	Illinois		Michigan (A, C)
Nebraska	Louisiana		Nevada (A, C)
New Mexico	Maine		Oregon (A, C)
North Carolina	Massachusetts		Pennsylvania (A, B)
Texas	Minnesota		South Dakota (A, B)
Utah	Missouri		Wisconsin (B, C)
Washington	New Hampshire		
Wyoming	New Jersey		
	New York		
	North Dakota		
	Ohio		
	Rhode Island		
	Vermont		
	Virginia		
	West Virginia		

* Hawaii has not yet determined how they will conduct periodic reviews.

**Court appointed body conducts periodic review.

absolutely no difference at all between (not just limited to purpose) the two procedures.

Although the federal law provides for periodic reviews and dispositional hearings to be conducted by the same body, it does stipulate distinct functions between the two proceedings. Fifty percent of the respondents did not think there was a distinct difference in their state. Those respondents who noted a difference in purpose were asked to describe the difference. Table 4-3 denotes these differences.

Table 4-3. Frequency of agency responses regarding how the purpose of the periodic review is different from the dispositional hearing

How the purpose of the dispositional hearing and periodic review differ	(N = 24)	
	Number	Percent
Hearing focuses on original disposition, review monitors progress of plan	17	(71)
Greater emphasis on permanency aspect of plan at hearing	6	(25)
Burden of proof is on parents in periodic review, and on agency in dispositional hearing	1	(4)

Over 95 percent of the 24 respondents did emphasize that the basic difference between the two proceedings was that periodic reviews focused on the review and monitoring of the case plan, while the dispositional hearing focused on whether or not the child should remain in care.

However, the approximate 50 percent split between respondents who see a difference between the purposes of the periodic review and dispositional hearings and respondents who don't raises the following questions:

- Has the intent of the two-tiered case review system been clearly defined for the states?

- Is a two-tiered approach to case review occurring in 25 states or are dispositional hearings and semi-annual reviews being conducted to fulfill the same purpose?
- In the 24 states indicating that there is a difference in the purpose of the two proceedings, are more permanent placement decisions being made for children? and, finally
- If the proceedings are serving the same function, does this detract from permanent placement decisions being made for children?

Although this study does not provide a thorough investigation into these questions for all states, Part II (state reports) does provide examples of how periodic reviews and dispositional hearings are differentiated in states in which:

- The same organizational body conducts both proceedings;
- The periodic review is conducted by a citizen review board and the dispositional hearing is conducted by a court; and
- The periodic review is conducted by an agency administrative body and the dispositional hearing is conducted by the court.

4.2 Citizen Review Boards

Many states have implemented or are contemplating implementing citizen review boards to assist in periodic review of children in care. Respondents were asked if they had citizen review boards operating in their states. Nineteen agency respondents and 16 court respondents indicated that citizen review boards were operational, however only 13 of the respondents represented the same states. Both groups of respondents indicated that the extent to which review boards were operating statewide varied; in some states a review board might be found in only one county as a demonstration project, while other states had them operating statewide with centralized administration. Table 4-4 denotes the frequency of agency and court respondents indicating whether or not they had a citizen review board.

Table 4-4. Frequency of agency and court responses indicating whether or not they have a citizen review board

Response	Agency (N = 50)		Court (N = 51)	
	Number	Percent	Number	Percent
State has citizen review board	18	(36)	16	(31)
State does not have citizen review board	31	(62)	35	(69)
State has review board in law but not yet operating	1	(2)	0	(0)

The discrepancy between court and agency responses may be due to the fact that judges interviewed were not aware of review boards operating in other parts of their state.

Respondents were then asked to indicate the relationship between the review board and the court and agency. Table 4-5 outlines the responses.

Table 4-5. Frequency of agency and court responses regarding the relationship of review boards to the court

Relationship of review board to court and agency	Agency (N = 19)		Court (N = 16)	
	Number	Percent	Number	Percent
Review board decisions are recommendations to the court only and not binding on the agency unless ratified by the court	8	(42)	6	(38)
Review board decisions are recommendations to the agency only	4	(21)	1	(6)
Review board decisions are binding on the agency without court action	0	(0)	1	(6)
Review board decisions are binding on the agency unless the agency disagrees formally, in which case parties may seek resolution of the disagreements	3	(16)	3	(19)
Review board decisions are recommendations to the agency; copy of recommendation sent to the court and agency must file non concurrence with review board if disagree with recommendation	1	(5)	1	(6)
Not ascertained	3	(16)	4	(25)

Although the responses seem rather consistent, there was only a 61 percent agreement as to the relationship of the review board to the agency and the court in the 13 states in which the respondents agreed citizen review boards were operating.

4.3 Other Agency Reviews

Agency respondents were also asked to indicate whether or not other nonjudicial reviews were conducted for children and their families. Table 4-6 shows the frequency of other reviews according to agency respondents.

Table 4-6. Frequency of other nonjudicial review reported by agency representative

Review type*	(N = 50)	
	Number	Percent
Caseworker/Supervisor	46	(92)
Agency administrative	47	(94)
Interdisciplinary panel	28	(56)

*Reviews may be conducted on an as needed or periodic basis.

These numbers represent reviews that could happen on a periodic or "as needed" basis. They do not indicate that all children in care are reviewed 92 percent of the time by caseworker/supervisor, 94 percent of the time by an administrative review or 56 percent of the time by an interdisciplinary panel.

The agency administrative category includes, but is not limited to:

- Reviews by an administrator;
- Reviews by agency administrative panels;
- Reviews by an agency consultant;
- Staffings on problem cases; and
- Placement screenings.

The interdisciplinary panel includes, but is not limited to:

- Reviews by child protective service teams;
- Residential and hospitilization placements for children; and
- Staffing.

Overall, there has been a large effort to increase the extent of review of children brought into foster care from initial screening, to case plan development, to final placement decisions. This effort has refocused the process of decision-making from the individual social worker for a case to a team effort, and has increased agency awareness of the importance of accountability.

5. DUE PROCESS AND THE DECISIONMAKING AUTHORITY OF THE DISPOSITIONAL HEARINGS

The telephone surveys also attempted to ascertain, on a nationwide level, what procedural protections are made available to parties to the dispositional hearings in practice, and what procedural safeguards state law required for these hearings. This section presents the judges' descriptions of the procedural safeguards that are actually provided in their courts and those that are mandated throughout the state for dispositional hearings. We use the term "dispositional hearing" throughout although the judges were asked to respond with respect to the hearing in their state that most closely resembled the federal requirements. Thus, they may have been referring to a "judicial review hearing," an "extension" hearing or a hearing on a motion.

As indicated in the introduction, it is important to note that the sample of court respondents is biased in several important ways. First, judges asked to participate in this study were known by the National Council of Juvenile and Family Court Judges and the National Legal Resource Center for Child Advocacy and Protection of the American Bar Association to be actively involved with and concerned about the problems in the foster care system which are addressed by the federal legislation. Many are juvenile court judges or had served long terms in judicial assignments dealing relatively exclusively with juvenile and family court matters, and, by virtue of such service, are more aware of the need for judicial review of children in foster care than other judges with more varied case loads might be. Most judges asked to participate in the study preside in urban courts.

Finally, most of these judges answered the questions using the procedural safeguards provided in their own courtrooms in their most formal judicial review hearings as a point of reference in answering the questions although this might in no way represent the handling of the typical case. As indicated in Chapter 2, at times hearings are held by another person such as a referee or commissioner or by a court appointed or court approved body which may conduct much less formal hearings. As a result, the description of procedural safeguards for dispositional hearings that emerges from the court survey is probably a rather more optimistic representation of "best practice" in the states than it is an accurate picture of typical practice.

5.1 Notification

Since the purpose of the dispositional hearing under the federal legislation is to determine what the future status of the child will be, the legislation is concerned that people with an interest in or a right that might be affected by the hearing be informed that the hearing will be held. Tables 5-1 and 5-2 present the sampled judges' responses on who is notified in practice and who is required to be notified by law when a hearing is to be held before the judge. It should be noted that this may represent only a portion of the cases as many states have only recently mandated periodic judicial review.

In general, court respondents stated that more people are notified in practice about dispositional hearings than are actually required to be notified by state law. All court respondents stated that as a matter of policy and practice the agency is notified, and 94 percent of court respondents thought that state law mandated notification of the agency involved. Ninety-four percent of the court personnel surveyed responded that natural

Table 5-1. Court responses on who are notified in practice*

Q. Who among the following are notified of dispositional hearings?

(N = 50)	Yes, in policy and practice		Yes, but not implemented everywhere		Yes, but some exclusions		Varies by status		Not in policy or practice		Not ascertained/ don't know	
Party	#	%	#	%	#	%	#	%	#	%	#	%
Natural parent	47	(94)	1	(2)	2	(4)	0	(0)	0	(0)	0	(0)
Child[1]	35	(70)		(0)	8	(16)	0	(0)	6	(12)	1	(2)
Agency	50	(100)	0	(0)	0	(0)	0	(0)	0	(0)	0	(0)
Parents' attorney	40	(80)	0	(0)	4[2]	(8)	3	(6)	3	(6)	0	(0)
Child's attorney	44	(88)	0	(0)	4	(8)	0	(0)	2	(4)	0	(0)
Agency attorney	39	(78)	0	(0)	0	(0)	0	(0)	11	(22)	0	(0)
Any others	31	(62)	0	(0)	1	(2)	0	(0)	18	(36)	0	(0)

*Responses represent frequency of procedural safeguards when formal hearings are held by a judge and do not necessarily indicate that procedural safeguards are applied for all cases reviewed. As discussed in the text, the sample may represent "best practice" rather than typical practice.

[1] Yes, age appropriate + policy and practice.

[2] Yes, but only if requested by court, agency, or other interested parties.

Table 5-2. Court responses on mandates about who are notified*

Q. Who among the following does state law mandate be notified?

(N = 50)	Yes		No		Varies by state/status		Yes - others[1]		Don't know/ not ascertained	
Party	#	%	#	%	#	%	#	%	#	%
Natural parent	46	(92)	3	(6)	1	(2)	0	(0)	0	(0)
Child	35	(70)	10	(20)	3	(6)	0	(0)	2	(4)
Agency	46	(92)	3	(6)	0	(0)	0	(0)	1	(2)
Parents' attorney	38	(76)	10	(20)	0	(0)	1	(2)	1	(2)
Child's attorney	39	(78)	8	(16)	1	(2)	1	(2)	1	(2)
Agency attorney	29	(58)	19	(38)	0	(0)	1	(2)	1	(2)
Any others	16	(32)	33	(66)	0	(0)	0	(0)	1	(2)

*Responses represent frequency of procedural safeguards when formal hearings are held by a judge and do not necessarily indicate that procedural safeguards are applied for all cases reviewed. As discussed in the text, the sample may represent "best practice" rather than typical practice.

[1] Yes, general court proceedings.

parents are notified in policy and practice. A slightly smaller percentage, 92 percent, felt that state law mandated that natural parents be notified when a formal hearing was to be held. Notification is less likely to go to the child. Sixty-seven percent of the court respondents stated that as a matter of policy and practice the child is notified of an upcoming dispositional hearing, while 73 percent of court respondents stated that state law required that the child be notified of an upcoming dispositional hearing.

Children's attorneys or guardians ad litem, however, are more frequently notified, according to court respondents, than either parents' attorneys or agency counsel. Eighty-eight percent of court respondents stated that as a matter of practice and policy the child's attorney or guardian ad litem, if any, is notified while only 80 percent stated that parents' attorneys, if any, are notified as a matter of practice and policy.

Other parties may also be interested or involved in the outcomes of a dispositional hearing, and about 60 percent of the court respondents said that it is their policy and practice to notify other parties of upcoming dispositional hearings. The kinds of people mentioned in this regard were foster parents or caretakers; other professionals involved in the case, such as psychologists; the childs' legal guardian, where that person might not have custody of the child; grandparents and other interested parties who are not custodians of the child but maintain an interest in the child's welfare and an involvement in their life, and tribal or ethnic representatives for the child.

5.1.1 Form of Notification

Of almost equal significance with whether or not interested parties receive notice at all, is the form that the notice takes. Is the natural parent notified in advance in writing of an upcoming dispositional hearing or does that parent receive a phone call from the child's agency worker the day before the scheduled hearing? Are case records and reports made available to interested parties before the hearing so that they can have some idea of the progress made in approaching case goals and prepare a response for presentation to the court? Does the notice given include some suggestions of what possible results of the hearing might be? Are parties who are notified required to attend the hearing so that possible changes in arrangements for the care of the child can be discussed with the interested parties? The form of notice and information provided can determine whether or not natural parents, custodians, guardians and attorneys for various parties will be able to arrange to attend the hearing, whether they are aware of the nature of the hearing and possible changes in arrangements for the child and whether they can adequately prepare for a hearing. (Tables 5-3 and 5-4 present the court respondents' responses to the survey's questions concerning due process procedures in the dispositional hearings.)

When court respondents were asked about written notice, only 78 percent said that it was their policy and practice to provide written notice, and slightly more, 84 percent, responded that state law required them to provide written notice. These figures, however, hide a wealth of diversity of practice. Some respondents noted that written notice of dispositional hearings is included in the report of the results of the last hearing, which is usually held six months in advance of the dispositional hearings, or is written into the orders that are handed out at that previous hearing. The date may be long forgotten by the

Table 5-3. Court responses on due process procedures practices at dispositional hearings*

Q. Which of the following procedures are followed with regard to the dispositional hearing in practice?

(N = 50)	Yes, policy and practice		No, not policy or practice		Yes, but only by results of last hearing		Yes, policy calls for but not implemented elsewhere		Yes, but some categories excluded		Yes, but only if required by court agency	
Procedure	#	%	#	%	#	%	#	%	#	%	#	%
Written notice provided	39	(78)	2	(4)	6	(12)	1	(2)	2	(4)	0	(0)
Case provided prior to hearing	14	(28)	14	(28)	0	(0)	2	(4)	9	(18)	11	(22)
Notice includes statement of possible results	19	(38)	27	(54)	0	(0)	0	(0)	4	(8)	0	(0)
Are those notified required to attend in practice?	7	(14)	22	(44)	0	(0)	0	(0)	16	(32)	5	(10)
Those notified are appointed counsel	18	(36)	3	(6)	0	(0)	0	(0)	19	(38)	10	(20)
Those present given opportunity to present and question witnesses	45	(90)	2	(4)	0	(0)	0	(0)	3	(6)	0	(0)
Right to appeal	45	(90)	3	(6)	0	(0)	0	(0)	2	(4)	0	(0)
Record is made of the proceedings	40	(80)	4	(8)	0	(0)	0	(0)	5	(10)	1	(2)
Written finding or order as result of hearing	46	(92)	1	(2)	0	(0)	0	(0)	3	(6)	0	(0)
Other due process safeguards	9	(18)	37	(74)	0	(0)	0	(0)	3	(6)	0	(0)

*Responses represent frequency of procedural safeguards when formal hearings are held by a judge and do not necessarily indicate that procedural safeguards are applied for all cases received. As discussed in the text, the sample may represent "best practice" rather than typical practice.

[1] Yes, age appropriate + policy and practice.

Table 5-4. Court responses on mandated due process procedures at dispositional hearing*

Q. Which of the following procedures are mandated with regard to the dispositional hearing?

(N = 50) Procedure	Yes		No		Qualified "yes"		Don't know	
	#	%	#	%	#	%	#	%
Written notice provided	41	(82)	4	(8)	4	(8)	1	(2)
Case provided prior to hearing	15	(30)	24	(48)	10	(20)	1	(2)
Notice includes statement of possible results	14	(28)	35	(70)	1	(2)	0	(0)
Those notified are required to attend	8	(16)	29	(58)	13	(26)	0	(0)
Those notified are appointed counsel	22	(44)	8	(16)	20	(40)	0	(0)
Those present given opportunity to present and question witnesses	40	(80)	7	(14)	3	(6)	0	(0)
Right to appeal	44	(88)	4	(8)	2	(4)	0	(0)
A record made of the proceedings	36	(72)	12	(24)	2	(4)	0	(0)
Written finding or order as a result of hearing	45	(90)	4	(8)	1	(2)	0	(0)
Other due process safeguards	9	(18)	39	(78)	1	(2)	0	(0)

*Responses represent frequency of procedural safeguards when formal hearings are held by a judge and do not necessarily indicate that procedural safeguards are applied for all cases reviewed. As discussed in the text, the sample may represent "best practice" rather than typical practice.

time the next hearing date arrives. Other judges, even though they believed that the practice was to give written notice, commented that sometimes notice was given verbally, or thought there were other exceptions to the general practice of written notice.

5.1.2 Case Report Availability Prior to the Hearing

Only 28 percent of court respondents thought that it was practice to make case reports available to all parties and their counsel prior to these hearings. An almost equal percentage stated that it was mandated policy to make such reports available. Others stated that case reports might be made available to attorneys involved in the case after requesting them from the court, or that the agency might be willing in some cases to share such reports before the hearing. Some acknowledged that in certain types of cases, such as potential terminations, these records would be made available to parties to the case, but that for other types of cases, these records would not generally be available.

5.1.3 Statement of Hearing Results

Fifty-four percent of court respondents stated that it was not their policy or practice to include a statement of possible results of the dispositional hearing in the notice to parties and 70 percent said that such a statement in the notice was not mandated by state law. Where such a statement is included in the notice, it may simply be a statement that the child may be continued in a foster care placement, instead of a notice that the hearing must also consider the possibility of returning the child to the parents or placing the child for adoption.

5.2 Requirement to Attend Hearings

When asked if notified parties are required to attend these hearings, 44 percent of the court respondents stated that it was not their policy or practice to require attendance and 58 percent said that the attendance of notified persons was not mandatory. Others answered that yes, it was their practice to require most notified parties to attend, but that parents and the child were not so required. Some respondents noted that even though their attendance at these hearings was required, there was no method to compel parents to attend, and consequently parents seldom were present at dispositional hearings. Some respondents required only the attendance of the agency personnel and the child's attorney, and others issued summonses to assure the presence of the parents.

5.3 Procedural Safeguards in the Actual Hearing

In addition to the questions surrounding notice (who gets notice, what form does that notice take, what information about the hearing is contained in the notification to the parties), the questionnaire also focused on the procedures within the hearing itself that could serve to protect the interests of involved parties. Are parties given appointed counsel if they are not already represented; do they have the opportunity to present witnesses of their own and to question witnesses presented by other parties; is there a right to appeal the decisions made in the hearing; is a verbatim record made of the proceedings; do written findings and orders issue as a result of the hearing. The responses to these questions should offer some description of the form of the dispositional hearings themselves.

5.3.1 Right to Counsel

Thirty-six percent of the court respondents stated that it is their policy and practice to appoint counsel for all parties not already represented. Again it should be noted that respondents may have meant they appointed counsel in contested cases requiring formal hearings rather than in all 18 month hearings. An additional thirty-eight percent reported that some parties (in some states just the child, in others both the parents and the child), but in general not all parties, are provided with appointed counsel. Sometimes the respondents suggested that access to appointed counsel for parents and children depended on their financial situation or on the nature of the hearing, such as whether the agency was recommending something other than a continued foster care placement for the child. In at least one instance, the respondent suggested that parties are appointed counsel where not already represented, only in those cases where the parent opposes the recommendations of the agency. More than one-quarter of all the court respondents stated that either notified parties are not appointed counsel if not already represented, or appointed counsel is only provided at the specific request of the court, the agency, the parents, or some other interested party. One respondent noted that if the parents appeared at the hearing and requested counsel, the court directed them to the public defender's office.

All of these answers raise the unasked question of whether counsel is appointed for unrepresented parties, and, especially, unrepresented parents who do not come to the hearing. Clearly, responses that suggest that parents must prove indigence, or that presuppose not only a parental appearance at the hearing but also that the parent is savvy enough to request to be represented, seem to exclude the possibility that those parents who do not attend will have their interests represented. This problem highlights the importance of giving appropriate notice of upcoming dispositional hearings to interested parties and of assuring that the content of that notice is sufficient to inform those notified of the value of attending the hearing. Also, whether a case is actively contested is not the sole indicator of whether the counsel is needed by a child; often counsel may be most important in "stagnant" cases to get some action for the child.

5.3.2 Right to Present and Question Witnesses

Fourteen percent of the court respondents stated that they are not required by state law to allow those present when hearings are held the opportunity to present and question witnesses. An additional six percent of court respondents noted that state law requires them to extend the opportunity to present and question witnesses only to certain parties. In terms of practice and policy, 90 percent of the court respondents stated they did give those present at the hearing the opportunity to present and question witnesses. One respondent among this group noted, however, that while parties are generally allowed to present their side, they are only occasionally permitted to question other witnesses. Another declared that since he had so well trained "his agency's" personnel, there was no need to question their reports or present other witnesses.

5.3.3 Right to Appeal

Finally, 88 percent of the court respondents stated that state law mandated that the right to appeal applies to all notified parties, and 90 percent said that it is their policy and practice to make such right to appeal available to parties to the hearing. Some noted that in their jurisdiction the right to appeal the decisions made at such a hearing extended only to the parent and child. One respondent stated that there is no need to an appeal because he does not issue any orders, which raises some questions about the purposes of hearings in that jurisdiction.

5.3.4 Records of Proceedings

The results of the telephone survey of court respondents indicate that in a large number of "dispositional" hearings a record is made of the proceedings. Eighty percent of the court respondents said that it is their policy and practice to have a record of the proceedings made, and 72 percent stated that state law mandated that such records be made of dispositional hearings. Others responded that a record is made only if an actual hearing takes place, or only if it is an adversarial hearing, or only if testimony is given. Such answers suggest that, at least in some jurisdictions, dispositional hearings are frequently just a pro forma review arrangement between the hearing decisionmaker and the agency responsible for the care of the child. Even for the large number of cases where respondents indicated that hearings are recorded, caution must be exercised in extrapolating a general form of practice from the responses of judges, who largely commented on procedures in their courtrooms, and not hearings conducted by referees, magistrates or court appointed or approved administrative bodies. Several court respondents noted that hearings before magistrates and referees are not recorded. The lack of a record of a dispositional hearing may have an effect at a later hearing where the history of parental involvement in the case and parental cooperation or noncooperation with service plans as well as agency attempts and/or failures to provide services are important. This information is particularly important in proceedings on termination of parental rights.

5.3.5 Written Order

Most court respondents stated that a written finding or order issues as a result of the hearing (90 percent felt that written findings or orders are required under state law, and 92 percent said that it is their policy and practice to issue such written findings or orders). A few respondents noted that written opinions are usually prepared for contested cases but not in other instances. Others noted that a written finding or order could include a preprinted check-off form. Some answered that there was no written order if the result of the hearing was to preserve the status quo situation for the child.

5.3.6 Other Procedural Safeguards

About one-quarter of the court respondents identified other procedural safeguards that are also mandated and applied to dispositional hearings. The types of procedures mentioned by the respondents include the possibility of appointing a guardian ad litem in addition to the attorney already appointed for the child; notifying the parties of their right to a subsequent court hearing when the dispositional hearing is handled by an administrative body; verbally explaining the purposes, procedures, and results of the hearing to the parties; providing a written list of rights to all attending parties; and giving parties to the hearing the right to subpoena witnesses.

5.4 Right of Foster Parents

Court respondents were also asked whether foster parents were, in general, afforded the same due process rights that are available to other parties (See Table 5-5). Almost 60 percent said that the above discussed due process safeguards are not provided to foster parents. About 35 percent of the court respondents said that some procedural safeguards, but not all those available to other parties, are provided to foster parents, either in practice or as a right under the state statute. Some jurisdictions grant foster parents the right to be heard in proceedings that might affect the placement of the child. Most commonly, where any due process procedures apply, the foster parents are only provided notice of the upcoming hearing.

Table 5-5. Due process safeguards applied to foster parents

Q. In general, are the due process procedures listed above also applied to foster parents?

Yes, all	Yes, some	No	Don't know
3 (6%)	17 (34%)	29 (58%)	1 (2%)

5.5 Statutory Standards for Decisions Made at the Dispositional Hearing

The federal act envisions the purpose of the dispositional hearing to be a careful assessment of alternative placements for the child and a decision about the permanent placement for the child in foster care. The telephone survey of court respondents attempted to elicit information about whether legislation in the states mandated standards on which decisionmakers at the dispositional hearings could base decisions about permanent placements. Court respondents were asked whether there are "any statutory court standards for decisions to be made at the (dispositional) hearings on the permanent plan for the child?" Twenty-nine out of the 50 respondents (or nearly 60 percent) stated that state law included such standards. A concurrent review of state legislation dealing with dispositional hearings in foster care conducted as a part of this study, however, concludes that probably less than fifteen states actually have such statutory standards (See Appendix B). A review of the completed telephone questionnaires clearly indicates that there was substantial confusion over the meaning of this item, and that confusion contributed heavily to the discrepancy in results between the telephone survey and the statutory review. Several court respondents who indicated that their state did have such statutory standards stated that that standard was the "best interests of the child" rule, which is not the type of standard anticipated in this question. Others suggested that the statutory standards they referred to were directed at the appropriate burden of proof at these hearings. Still others who answered the question in the affirmative noted that their state's standards were contained in case law, not statute. The degree of apparent confusion over this question may suggest a lack of understanding of the purpose of the dispositional hearings under the federal legislation and at least implies that in many cases "dispositional hearings" may at best be similar to periodic reviews also required by P.L. 96-272.

5.6 Authority of Decisionmaker at Dispositional Hearings

The range of options a decisionmaker in a dispositonal hearing may reach will be bounded by that decisionmaker's perception of his or her authority to order the agency to take such a particular action. Similarly, the ways in which agency personnel view the extent of the authority of the decisionmaker at the dispositional hearing will affect the kinds of services and activities they will be willing to provide for the child and the natural parents, the kinds of permanent plans they will be willing to suggest to the court, and the range of options for placement they will be willing to entertain and develop. For these reasons court and agency respondents were questioned about their perceptions of the authority of the decisionmaker at the dispositional hearing to order specific actions to be taken to implement the court's decision at the review hearing. (See Table 5-6).

In general (and somewhat unexpectedly), agency respondents felt that the authority of the decisionmakers was slightly wider than court respondents did. As seen in Table 5-6, there is a relatively high level of agreement from both court and agency personnel that the decisionmaker at a dispositional hearing has the authority to order the agency to return children to their parents, to order the agency to provide services to the family with a plan of returning the child home at a specified time, to order the agency to continue the child in foster care on a permanent or long-term basis. These responses reflect the traditional role of the courts in foster care cases. Much more controversial orders, and ones that both court and agency respondents were much less likely to perceive as within the authority of the dispositional hearing decisionmaker, are those that require the agency to take action to separate the child permanently from his or her natural parents. Only 46 percent of the court respondents felt that the decisionmaker has the authority to order the agency to initiate a termination of parental rights proceeding. (Eighty percent of agency respondents thought that the decisionmaker could order the agency to initiate a termination proceeding.) Similarly, 55 percent of court respondents (and 74 percent of the agency respondents) felt that the decisionmaker could order the agency to place a child for adoption. Seventy-four percent of the court respondents and 64 percent of the agency respondents

Table 5-6. Authority of decisionmakers at dispositional hearings (court and agency perceptions)

Decisionmaker has authority to:	Court perception (N = 50)			Agency perception (N = 50)		
	Yes	No	Other*	Yes	No	Other*
Order return of child to parents	46 (92%)	3 (6%)	1 (2%)	49 (98%)	1 (2%)	
Order provision of services to family with plan of returning child at later time	47 (94%)	2 (4%)	1 (2%)	48 (96%)	1 (2%)	1 (2%)
Order child continued in foster care for specific period	45 (90%)	4 (8%)	1 (2%)	48 (96%)	1 (2%)	1 (2%)
Order agency initiate termination of parental rights proceedings	23 (46%)	24 (48%)	3 (6%)	40 (80%)	8 (16%)	2 (4%)
Order agency to take steps to place child for adoption within a certain time frame	27 (54%)	20 (40%)	3 (6%)	37 (74%)	11 (22%)	2 (4%)
Order agency to continue child in foster care on a permanent or long-term basis	46 (92%)	3 (6%)	1 (2%)	46 (92%)	3 (6%)	1 (2%)
Order agency place child with specific foster parents relatives or any specific group homes or residential placement	37 (74%)	6 (12%)	7 (14%)	32 (64%)	10 (20%)	8 (16%)
Order agency file for guardianship or custody for the child	26 (52%)	16 (32%)	8 (16%)	36 (72%)	11 (22%)	3 (6%)

*Other includes responses 'varies with the status of the child,' 'disputed,' 'varies with the status of the case,' 'not ascertained,' and 'don't know.'

felt that the decisionmaker did have the authority to order the agency to place the child with a specific foster parent, relatives or a specific group home or residential placement. Others felt that while the decisionmaker could order the agency to place a child with a relative, it would be outside their authority to order other types of specific placements because of the financial constraints under which the agency had to operate. Substantially more of the agency respondents than the court respondents felt that decisionmakers at the dispositional hearing had the authority to order the agency to file for guardianship or custody for the child. Many of the court respondents admitted confusion over this question, however, stating that the agency already had custody of the child, or wondering what exactly was meant by "guardianship". The question was intended to discover whether respondents felt that the authority of decisionmakers extended to ordering the agency to file for guardianship or custody of the child on behalf of third parties, such as relatives or neighbors willing to care for the child.

5.7 Dispositional Hearings Conducted by Court Appointed or Approved Administrative Bodies

Four court respondents and nine agency respondents stated that court appointed or approved administrative bodies sometimes conduct dispositional hearings in their jurisdictions. (Court respondents were asked to respond to questions based on practice in their county, while agency respondents were questioned about practice in their state.)

In a few states, state statutes make the establishment of these administrative bodies permissive; a judge can elect to appoint or approve such a body as a means of handling a large number of foster care reviews and dispositional hearings with limited judicial resources. In at least one state, the agency has established the administrative body and claims that it has been approved "by default" by the court, "because the court has the opportunity to call a hearing and doesn't." This stratagem is seen by that agency as another way to bypass a tremendous court docket overload and still bring the state into compliance with the requirements of the federal act.

In practice, these bodies appear to be relatively closely tied to the state agency. More than half of these administrative bodies are court approved groups whose members have been nominated or appointed by the state child welfare agency. Most are composed of some combination of agency staff, citizens and other professionals. Where a local court has made a choice to appoint an administrative body rather than being required to do so the group is somewhat more likely to have more nonagency members. Few of these jurisdictions have specific guidelines or requirements for membership.

In many cases, some or all of the decisions of the court appointed or court approved body are not perceived to be binding on the agency unless ratified by the court (but there is no automatic mechanism for the court to review and ratify the decision, in several of the states).

In general, relatively few formal procedural protections seem to be provided in the proceedings of these administrative bodies. Less than half of the respondents indicated that there were written rules in their jurisdiction requiring the notification of the parties involved in proceedings before the administrative body, and only slightly more than half had rules requiring the issuance of written decisions. Very few at all required the taking of sworn testimony, required the keeping of verbatim records or required that decisions be based only on information presented at the hearing.

6. IMPACT, PROBLEMS IN IMPLEMENTATION AND RECOMMENDATIONS OF AGENCY AND COURT RESPONDENTS

A great deal of effort has been put forth by agency and court personnel to bring their states into compliance with the components of dispositional hearings. In this process they had to face various implementation problems as well as reflect on the benefits and impact of dispositional hearings. Respondents were asked to provide input on these issues and this chapter will provide agency and court responses in regard to:

- Perceived impact of judicial review;
- Problems in implementing P.L. 96-272 dispositional hearing requirements due to existing state laws and/or policies;
- Benefits of dispositional hearings;
- Overall problems in implementing P.L. 96-272 dispositional hearing requirements; and
- Recommendations for changes in P.L. 96-272 and assistance to the states.

6.1 Perceived Impact of Judicial Review

Agency and court respondents were asked if holding judicial or court appointed/approved body foster care review hearings impacted a variety of outcomes for parents, children, and the case review system. Respondents were instructed to answer what has been the effect, unless the hearings had been recently implemented or were in the planning phase, in which case they were asked to respond to what they thought the impact would be in the future. Tables 6-1 through 6-4 denote the frequency of court and agency responses for this question. The

Table 6-1. Frequency of court responses regarding perceived impact of judicial review

Outcomes	Perceived impact of court personnel			
	Number of respondents	Have been increased	Have been decreased	Have not been affected
Impact on Children		%	%	%
Percent of terminations	(36)	64	11	25
Number of placements per child	(36)	3	72	25
Percent of children returned home	(37)	78	0	22
Protection of child's rights	(40)	90	0	10
Impact on Parents				
Parental participation in case review	(39)	87	0	13
Protection of parent's rights	(40)	85	0	15
Impact on Case Review				
Length of time before termination recommended	(38)	10	74	16
Time involved in case review	(40)	68	20	12
Percent of cases with recommendation of long-term foster care	(37)	8	54	38
Average length of care	(33)	0	82	18

Table 6-2. Frequency of court responses regarding perceived potential impact of judicial review

Outcomes	Perceived potential impact of court personnel			
	Number of respondents	Would be increased	Would be decreased	Would not be affected
Impact on Children		%	%	%
Percent of terminations	(11)	82	9	9
Number of placements per child	(10)	0	70	30
Percent of children returned home	(8)	88	0	12
Protection of child's rights	(9)	89	0	11
Impact on Parents				
Parental participation in case review	(10)	80	0	20
Protection of parent's rights	(9)	78	0	22
Impact on Case Review				
Length of time before termination recommended	(11)	18	72	10
Time involved in case review	(8)	63	25	12
Percent of cases with recommendation of long-term foster care	(8)	25	37	38
Average length of care	(8)	0	75	25

Table 6-3. Frequency of agency responses regarding perceived impact of judicial review

Outcomes	Perceived impact of agency personnel			
	Number of respondents	Have been increased	Have been decreased	Have not been affected
Impact on Children		%	%	%
Percent of terminations	(34)	68	0	32
Number of placements per child	(34)	0	35	65
Percent of children returned home	(36)	67	0	33
Protection of child's rights	(36)	83	0	17
Impact on Parents				
Parental participation in case review	(39)	79	0	21
Protection of parent's rights	(38)	84	0	16
Impact on Case Review				
Length of time before termination recommended	(37)	11	57	32
Time involved in case review	(42)	86	4	10
Percent of cases with recommendation of long-term foster care	(33)	6	61	33
Average length of care	(32)	3	81	16

Table 6-4. Frequency of agency responses regarding potential impact of judicial review

Outcomes	Perceived potential impact of agency personnel			
	Number of respondents	Would be increased	Would be decreased	Would not be affected
Impact on Children		%	%	%
Percent of terminations	(14)	79	0	21
Number of placements per child	(10)	10	50	40
Percent of children returned home	(8)	88	0	12
Protection of child's rights	(11)	82	0	18
Impact on Parents				
Parental participation in case review	(10)	70	0	30
Protection of parent's rights	(8)	75	0	25
Impact on Case Review				
Length of time before termination recommended	(11)	9	55	36
Time involved in case review	(7)	57	43	0
Percent of cases with recommendation of long-term foster care	(12)	8	75	17
Average length of care	(12)	0	92	8

percentages are provided separately for the court and agency respondents and divided by perceived impact and perceived potential impact. It appears that perceived impact responses are basically consistent between agency and court respondents, with court responses slightly more optimistic. The greatest perceived impact of judicial review for parents and children is protection of their rights. The high percentage (83%) of agency respondents indicating protection of children's rights through judicial review is higher than anticipated based on the feedback provided by agency personnel during the site visit interviews. Agency personnel had repeatedly stated that they felt increased judicial review would benefit parents, but not children. Further attention will be given to the results of this question when the selected state questionnaire data are analyzed.

One area in which there was a rather noticeable difference in perception of impact between agency and court personnel was in the number of placements per child. Thirty-five percent of agency personnel felt that the number of placements had been decreased and 65 percent felt they had not been affected by judicial review, while 72 percent of the court respondents felt that judicial review decreased the number of placements for a child and only 25 percent felt that the number of placements had not been affected. This difference could be attributed to the fact that agency personnel indicated that in many states placement decisions do not have to be ratified by the court and so they did not believe that court intervention affected the number of placements.

One other area in which there was a noticeable disagreement between agency and court respondents' perceptions was in the amount of time involved in case review. Although a high percentage of both agency and court respondents indicated that time involved in case review would be increased, 18 percent more of the agency respondents indicated this increase. Agency respondents noted that more time was being spent writing court reports and internally reviewing cases.

In examining the differences between perceived impact and the perceived potential impact, it is apparent that the perceived potential impact is more optimistic for both court and agency personnel. The greatest degree of disagreement between agency and court personnel is once again in the effect on number of placements per child. There is a large disparity in agency responses between the perceived impact of judicial review on time involved in case review and the perceived potential impact of the time involved. Respondents were more positive about the impact judicial review might have in the future and the amount of time that more extensive review will involve.

6.2 State Laws/Policies Which Affect Implementation of P.L. 96-272

Agency and court respondents were asked if there are or have been any laws or court review policies which made it difficult to meet P.L. 96-272 dispositional hearing requirements. Twenty-six (52%) state agency respondents as compared to eight (14%) court respondents cited problems. This variation in perception may be due to the fact that agency personnel, and not the courts, have had the responsibility of ensuring state compliance with P.L. 96-272. The distribution of the problems noted is found in Table 6-5.

Table 6-5. Distribution of agency and court personnel who cited problems in implementing P.L. 96-272 requirements due to existing state laws or policies

Problem cited*	Agency (N = 26)	Court (N = 8)
	Percent	Percent
Absence or conflict with state law	62	63
No reason for court to comply with law	15.4	12.5
Inadequate legal representation for agency, parents, and children	11.5	0
Court procedural requirements	7.7	12.5
Lack of judicial training	3.8	0
Inadequate sanctions against agency	0	12.5

*See Appendix Exhibit A-1 for complete breakdown of categories included in this table.

As this question was open-ended, the categories in the table represent combined responses. A listing of the major open-ended response categories can be found in Appendix A-1.

Even though 18 more agency respondents indicated problems, the frequency of problems mentioned by agency and court respondents is very similar.

The response most frequently given by both groups related to an absence or conflict with state law. When respondents were asked to elaborate about how their state laws conflicted with dispositional hearing requirements, the majority of respondents noted that their state laws did not require judicial review within 18 months. Another concern mentioned by respondents was that state law dictated that once the court determined custody, it was the agency's responsibility to determine placement, and therefore it was contrary to state law for the court to be involved in placement decisions. This particularly affected review of children who were free for adoption or placed in permanent foster homes.

The other problem agency and court respondents noted was that there was no major reason for courts to comply with the dispositional hearings. Both categories of respondents indicated that the federal law did not provide incentives for the courts to comply or funding to compensate for the added responsibilities and increased court caseloads. It was noted that not only were there no incentives for the courts to comply, but it was the agency's responsibility to gain the cooperation of the court system. If the court refused or was unable to participate, the agency was held accountable and "punished" for the inaction of the court.

6.3 Major Benefits

Agency and court personnel were asked to list what they thought were the major benefits of requiring dispositonal hearings for children in foster care. Although a limit was not given to the number of benefits they could name, only the first three benefits mentioned were coded. Table 6-6 represents the combined number and percent of agency and court respondents who cited each of the benefits listed.

Table 6-6. Cited benefits of P.L. 96-272 comparing agency and court responses

Categories of Benefits*	Agency (N = 50)		Court (N = 50)	
	Number	Percent	Number	Percent
Increase agency accountability	34	(68)	31	(62)
Permanent plan becomes a priority	19	(38)	21	(42)
Prevents foster care drift	15	(30)	18	(36)
Increased judicial involvement	15	(30)	1	(2)
Increased participation of parties	13	(26)	10	(20)
Protect parents' rights	8	(14)	1	(2)
Protect children's rights	6	(12)	11	(22)
Agency/court relationship	3	(6)	6	(12)
More emphasis on reunification/ rehabilitation of family	1	(2)	6	(12)
Reduce costs of foster care	0	(0)	1	(2)
Improve public understanding of foster care	1	(2)	0	(0)
None	0	(0)	0	(6)

*See Appendix Exhibit A-2 for complete breakdown of categories included in this table.

As this was also an open-ended question, the categories listed on the table represent combined responses and the breakdown of the responses within each category can be found in Appendix A-2.

Generally, court and agency respondents were consistent in the benefits mentioned. One area of discrepancy was increased judicial involvement. The court respondents (2%) did not find increased judicial involvement as important a benefit as did the agency respondents (30%). Agency respondents noted that it was very beneficial to have legal support for their plans. Another area in which there was at least a 10 percent difference in response rate was the benefit of protecting children's rights and parents' rights. Agency respondents cited protection of parents' rights 12 percent more than court respondents, whereas the reverse was true for protection of children's rights, where there was a 10 percent higher response rate for court respondents.

The overall major benefit most frequently cited by court and agency personnel was an increase in agency accountability. Although it was not suprising to find respondents indicating the overall benefit to be agency accountability, it is noteworthy that a major intent of the law is cited by the agency and court respondents as the predominant benefit.

6.4 Problems in Implementing P.L. 96-272

Agency and court personnel were asked to cite the major problems involved in implementing the hearings as required by P.L. 96-272. A limit was not given to the number of problems they could cite, but only the first three problems cited were coded. Table 6-7 represents the combined number and percent of agency and court personnel who mentioned the problems listed.

Table 6-7. Cited problems in implementing P.L. 96-272 comparing agency and court responses

Categories of Implementation Problems*	Agency (N = 50)		Court (N = 50)	
	Number	Percent	Number	Percent
Increased workload	33	(66)	46	(92)
Low priority given to dependency cases by courts	12	(24)	1	(2)
Need for training for judges, lawyers, agency staff	11	(22)	6	(12)
Procedural problems	11	(22)	7	(14)
Agency/court relationship	9	(18)	0	(0)
Lack of adequate funding	8	(16)	10	(20)
Clarification of the law	4	(8)	2	(4)
Hearings negatively affect the family	2	(40)	3	(6)
Legal delay	2	(4)	3	(6)
Legal representation is inadequate for parents, children and/or agency	3	(6)	0	(0)

*See Appendix Exhibit A-3 for complete breakdown of categories included in this task.

The 11 categories of implementation problems are collapsed from 39 coded responses; the complete breakdown of categories can be found in Appendix A-3.

The problem most frequently noted by court and agency respondents was the increased workload that the dispositional hearing proceeding created. Specifically, respondents saw need for more agency and court staff to prepare cases, hear cases and to coordinate efforts between the agency and court.

Agency respondents noted that dependency cases are a low priority on many court dockets, and this problem occurs whether or not there is a specified juvenile court in the state. Some staff noted that, historically, involvement in dependency cases has been difficult for the courts because of the ambiguity of the issues. The increased involvement of the judicial system in child welfare decisions raises the issue of proper training for judges, lawyers and agency staff.

Agency and court respondents acknowledged this need for training. The problem of inadequately trained agency and court personnel was emphasized further during the state visits. Agency personnel noted a need for further training in developing and presenting cases to the court, as well as training for judges and lawyers on child welfare issues. The court personnel also noted a need for further understanding of child welfare issues and training for agency personnel on presenting a case based on facts rather than "feelings" to the court.

Both agency and court respondents also acknowledged that lack of adequate funding was presenting a problem in implementing P.L. 96-272 requirements for dispositional hearings.

Finally, it was thought that problems mentioned by agency and court respondents would vary depending on who conducted the dispositional hearing most frequently. As is seen in Tables 6-8 and 6-9, there are not significant differences in the responses.

6.5 Agency and Court Respondent Recommendations

Agency and court respondents were asked to make recommendations for changes to improve P.L. 96-272 and recommendations for what would be of assistance to states in implementing the law. Again, limitations were not given to the number of recommendations a respondent could mention, but only the first two responses were coded.

6.5.1 Law

Table 6-10 outlines the combined number and percentage of agency and court respondents who cited recommendations for

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Table 6-8. Percent of court respondents who mentioned problems in implementing P.L. 96-272 by who conducts dispositional hearings most frequently

Problem	Person or group most frequently conducting the hearing		
	Judge (N=42)	Master/ Referee (N=4)	Court-Appointed/ Approved Body (N=4)
	%	%	%
Increased workload	93	50	100
Lack of adequate funding	19	25	25
None	17	25	0
Procedural problems	14	25	0
Need for training for judges/ lawyers/agency staff	12	0	25
Hearings negatively affect family	7	0	0
Legal representation is inadequate for parents, children, agency	5	0	0
Clarification of the law	5	0	0
Legal delay	2	0	0
Low priority given to dependency cases by the court	2	0	0

Table 6-9. Percent of agency respondents who mentioned problems in implementing P.L. 96-272 by who conducts dispositional hearings most frequently

Problem	Person or group most frequently conducting the hearing		
	Judge (N=36)	Master/ Referee (N=6)	Court-Appointed/ Approved Body (N=7)
	%	%	%
Increased workload	69	33	71
Low priority given to dependency cases by the court	22	17	43
Need for training for judges/ lawyers/agency staff	22	0	29
Agency/court relationship	19	17	14
Procedural problems	19	0	57
Lack of adequate funding	14	50	0
Clarification of the law	11	0	0
None	11	17	0
Legal delay	2	0	14
Legal representation is inadequate	0	0	0
for parents, children, agency	2	33	0
Hearings negatively affect family	0	17	0

changes to improve the law. See Exhibit 6-1 for a specific listing of the recommendations included in each of the categories of the table.

Table 6-10. Recommendations for changes to improve P.L. 96-272 comparing agency and court responses

Recommendations for law changes*	Agency (N = 50)		Court (N = 47)	
	Number	Percent	Number	Percent
Greater flexibility in interpreting and implementing the law	21	(42)	7	(15)
New requirements to be incorporated into the law	10	(38)	6	(13)
No changes	12	(24)	27	(57)
Clarification of law components	9	(18)	7	(15)
Increased funding	6	(12)	4	(9)
More specific time frames	5	(10)	4	(9)
Stricter requirements and interpretation of the law	2	(4)	2	(4)
Don't know	1	(2)	0	(0)

*See Exhibit 6-1 for complete breakdown of categories included in this table.

It should be noted that not one respondent suggested that the law be repealed. In fact, 57 percent of the court respondents and 24 percent of the agency respondents stated that no change was necessary. One respondent indicated that he did not feel it would be beneficial to recommend any changes in the law to Congress. He was concerned that if recommendations were made to change the law it would open discussion which might result in weakening the law. He suggested that all recommendations be handled through regulations.

There was a division in whether there should be more flexibility or stricter requirements in the law. Forty-two percent of the agency respondents recommended greater flexibility in interpreting and implementing the law, 38 percent wanted new requirements in the law which would strengthen the court's involvement and broaden the population covered by the law.

Exhibit 6-1. Agency and court recommendations for changes to Public Law 96-272

- Increased funding
    - Funding for courts
    - Funding for agency
    - Provide funds for parental support services (e.g., job training, housing assistance)
- Clarification of law components
    - Clarify definitions in law
    - Clarify procedural safeguards
    - Clarify original placement
- More specific time frames
    - Make 18 months time limit shorter
    - Specify time line for gaining parents' cooperation
- No changes
    - No changes should be made
    - Too soon to say
- Greater flexibility in interpreting and implementing the law
    - Provide ability for parties to waive a hearing
    - Provide leeway for differences in state procedures
    - Allow exclusion of specific categories of cases from court review
    - Provide option for holding nonjudicial dispositional hearings
    - Prohibit federal audit pending publication of regulations

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Exhibit 6-1 (Continued)

- Stricter requirements and interpretation of the law
  - Hearings should be held by court only, not court appointed body
  - Prohibit agency from being able to hold court approved hearings
  - Mandate agency directly
  - Mandate procedural safeguards

- New requirements to be incorporated into the law
  - Include measures to ensure court compliance
  - Mandate staff training
  - Mandate written case plan to be part of court disposition
  - Mandate Section 427 for 4E children as well as 4B
  - Impose P.L. 96-272 requirements on Indian Child Welfare Act
  - Provide professional staff to assist court
  - Allow suit to be filed in federal court on behalf of the child if hearing is not petititoned for on schedule

A particular recommendation that not only occurred during the telephone interviews but also during the site visit interviews was that the 18-month time limit is too long before a decision is to be made on a child's placement. These respondents felt that a decision had to be made before 18 months if it was going to be beneficial. It appears that some other respondents were unclear about how to apply the "within 18 months" provision in practice. Some believed it was too long because they thought "dispositional hearing" meant the initial disposition hearing which they believed should happen in less than 18 months. Others saw the purpose of the 18-month hearing as being to set a case plan goal (i.e., ultimate reunification or ultimate termination of parental rights) and believed the time frame was too long because the case plan goal should be set prior to 18 months.

6.5.2 Assistance

Table 6-11 outlines the combined number and percentage of agency and court respondents who made specific recommendations on the type of assistance the agencies and courts need to implement the law. See Exhibit 6-2 for a specific listing of the recommendations included in each of the categories of the table.

Table 6-11. Recommendations regarding the type of assistance needed to implement P.L. 96-272 comparing agency and court response

Recommendations for technical assistance	Agency (N = 50)		Court (N = 46)	
	Number	Percent	Number	Percent
Clarification of components of the law	23	(46)	5	(11)
Nothing is needed	15	(30)	14	(30)
Increased funding for court and agency	8	(16)	21	(46)
Training for legal, court, and agency personnel	8	(16)	3	(7)
Implement demonstration projects	7	(14)	5	(11)
New requirements to be incorporated into the law	3	(6)	0	(0)
Allow states flexibility in interpreting and implementing the law	1	(2)	1	(2)
Stricter requirements and interpretation of the law	1	(2)	5	(11)
Don't know	2	(4)	0	(0)

*See Exhibit 6-2 for complete breakdown of categories included in this table.

The most frequent recommendation from the agency representatives (46%) was for clarification of the components of the law, whereas the most frequent recommendation from court respondents (46%) was for increased funding. Agency respondents repeatedly acknowledged the difficulty they had in implementing a new law without regulations. Thirty percent of agency and court respondents stated that nothing was needed.

Once again the recommendations vary in scope from more flexibility to stricter mandates, depending on one's belief in

Exhibit 6-2. Agency and court recommendations regarding the type of technical assistance needed to implement P.L. 96-272

- Measures to ensure court compliance incorporated into the law

- Allow states flexibility in interpreting and implementing the law and some providing longer time for complaince

- Stricter requirements and interpretation of the law
    - Federal monitoring of agency
    - Make P.L. 96-272 mandatory, not just tied to federal funds
    - Specify that termination proceedings must happen prior to adoption orders
    - Mandate TPR within 30 days after 18-month hearing

- Increased funding for court and agency
    - Increased funding for courts
    - More funding for agencies

- Clarifications of components of the law
    - Regulations
    - Better definitions/procedures for Native Americans
    - Clarify definitions
    - Clarify expectations for audit

- Training for legal, court, and agency personnel
    - Education of judiciary
    - Systematic dissemination of information to attorneys by ABA
    - Provide technical assistance/training for states
    - Joint agency/lawyer workshops to develop more effective partnership
    - Handbook for parents on P.L. 96-272

Exhibit 6-2 (Continued)

- Implement demonstration projects
  - Model acts/suggestions from HHR outlining possible/preferable procedures
  - Research to document benefits of holding hearings
  - Create joint committee between agency and court to develop policy

the role of federal law and policy. The overriding recommendation from court and agency respondents is for a clearer definition of the intent of the dispositional hearing proceeding through guidelines that interpret the components of the law while at the same time allowing the states flexibility in implementing the components.

7. PRELIMINARY CONCLUSIONS AND ISSUES TO BE ADDRESSED

In presenting conclusions and issues to be addressed, this chapter incorporates information obtained from the national telephone study, the statutes review, and the site visits to the selected states. (See Volume II for an in-depth description of the hearings within the selected states.)

7.1 Overview

P.L. 96-272 states that the dispositional hearing "shall determine the future status of the child," yet it also states that "the determination shall include whether the child should be" returned home, placed for adoption, remain in foster care for a specified time, or have some other option. This language of the law has resulted in a wide variety of state interpretations of the purpose of the hearings.

One perspective, suggested by a review of the legislative history, views the dispositional hearing as a "fish or cut bait" hearing in which a decision is made concerning whether the child should be returned home or another permanent arrangement be made. In only special circumstances would the child be continued in nonpermanent foster care for a specified time. To ensure that the court's decision is carried out, the court must have legal authority to order the agency to provide services to the family for the brief extended foster care period, to order the agency to file a petition for termination of parental rights, to order the agency to aid foster parents or relatives in filing a guardianship petition, to order the agency to aid in establishing a stable, committed long-term foster care arrangement for the child, and to order the agency to take steps to place children for adoption who are already legally adoptable.

An alternative interpretation is that the dispositional hearing is a time when a critical look is taken at the child's current status and a special assessment made of permanent plans for the child. This interpretation stops short, however, of forcing a definite decision as to the direction permanent custody will take at that time. Still another view is that the dispositional hearing is simply a time when the court reviews the progress of the agencies' plan for the child.

These varied interpretations of the intent of the dispositional hearing have resulted in differing approaches to implementing the hearings.

Generally, where there was a judicial or other foster care review system already established prior to passage of Public Law 96-272, it resembled a periodic review or often simply provided for extension of the foster care order for an additional year if "the original purposes for foster care had not yet been fulfilled." In general, these existing laws do not require a decision at a specific point in time about the child's permanent home from among specified "permanent placement" alternatives, nor do they specifically require or authorize the court to take steps to see that the decision is implemented by the agency. Many states are continuing to use these reviews as their dispositional hearings.

In fact, a number of judges noted they felt very uncomfortable making what they considered to be "social work" decisions, especially without counsel actively participating to represent both sides and frame the issues for the court in legal terms. Often judges preference was to make "suggestions" to the agency and to encourage the agency to take certain steps without making a final decision or ordering implementation.

Some twelve states have enacted state laws which require the court to select from among specified permanent placement alternatives at a dispositional hearing held at or before eighteen months. The decisions made at these hearings more closely reflect the "fish or cut bait" hearing defined earlier.

How the dispositional hearing interfaces with other judicial reviews occurring in a state also affects the determinations made at the hearing.

Whether the dispositional hearing results in a final decision or not, it is ordinarily not possible to actually terminate parental rights or establish a guardianship at the same "dispositional" hearing at which the decision is made on what should happen. Due process requires that if parental rights are to be terminated parents must be given notice of that specific proceeding, and full due process rights, including appointment of counsel in many cases, must be provided. Ordinarily this will require a separate legal proceeding, often before a different judge. Adoption proceedings, of course, are separate legal proceedings that ordinarily could not be accomplished at the dispositional hearing. Generally, to establish a guardianship or to adopt a child, the prospective guardian or prospective adoptive parent must file their own petition in what is a separate legal proceeding. In many states, guardianship petitions must be filed in probate court rather than juvenile court and for that reason, too, separate legal proceedings are required. Similarly, true long-term foster care arrangements should involve discussions of the foster parents' long-term commitment to the child and a written long-term foster care agreement.

7.2 Issues Regarding Definition of the Components of Dispositional Hearings

With the absence, until recently, of approved regulations to help states interpret the intent of the dispositional hearing components of P.L. 96-272, there has been variation in interpretation and implementation of the law. As states had varying degrees of periodic case review and judicial review operating, it is to be expected that the law would be applied differently; however, the study found that some general areas of confusion still remain among the states:

- Does the initial disposition hearing for a child meet the requirements of Public Law 96-272 for dispositional hearings? A few respondents interviewed believed that their initial dispositional hearing met the law's requirements. Some respondents suggested the name be changed, if in fact the law was not referring to the initial dispositional hearing.
- Does "within 18 months" mean that the hearing should not take place before 18 months? Some respondents felt that the time frame was an absolute rather than an outside limit.
- Do all children under the supervision of the agency include children whose parents' rights have been terminated, cases in which termination petitions are pending, children in voluntary, adoptive, and long-term foster care placements?
- Does a formal hearing always have to be conducted in order to meet the dispositional hearing requirements or is a paper review sufficient? If all parties agree to a legal stipulation outside of court, is a hearing still necessary?
- What is the definition of original placement? There is discrepancy between the court and agencies as to whether the clock starts running for a child's placement the day he is brought into care, or the day of the court's disposition, which may be months later.

- The difference between the dispositional hearing and the periodic review. Is there a difference in the purpose of the two proceedings?

Although policy directives have been issued on some of these questions and regulations have recently been approved, it is suggested that the Children's Bureau, through its regional offices, further clarify these issues for states in a consistent manner. It was apparent that interpretation of the law was not consistent throughout the regional offices and that interpretation was not applied consistently for compliance reviews. This has added to state's confusion about how to implement the components of the law.

7.3 Status, Change, and Support

Even though there has been confusion about the requirements for certain aspects of the hearings, the study has shown that since the passage of P.L. 92-272, states have made a significant effort to implement various components. The following highlights results concerning state status and change:

- Ninety-six percent of agency representatives and 92 percent of judges interviewed expressed moderate or strong support for holding the hearings. About 70 percent of court and agency representatives expressed strong support.
- At least four out of the six denials of eligibility for funds under P.L. 96-272 for FY 1981 involved problems over dispositional hearing policy and implementation.
- Only five states reported they did not yet have an agency policy of requesting a court hearing by 18 months in care, however, only 66 percent of the states reported having such a policy and having at least 80 percent implementation at this time. Twelve states were unable to estimate compliance levels.

- Seventy-five percent of states reported some modification of law or policy in order to meet the dispositional hearing requirements.

- The component of the law which was least frequently agreeable to agency representatives was that the hearing include all children in care, 28 percent did not agree with this component. The component least agreeable to the judges was that the hearing take place within 18 months. Many felt that this was too long a time frame or that it should vary by case. Thirty-six percent of the judges did not agree with this component.

- Twelve states have statutory requirements to hold hearings by courts or court appointed bodies at which they are required to make a decision on the future status of the child from specified alternatives.

- Thirty-one states, including those twelve noted above, have statutes mandating court review within 18 months.

7.4 Quality of Implementation

While it appears that some level of judicial review is occurring in all states, the extent to which the components of the law have been implemented varies tremendously. Chapters 2 and 3 outlined the different levels of implementation of the dispositional hearing components throughout the country. It was clear that states are addressing the philosophy of ensuring movement for children in foster care into permanent situations rather than maintaining the status quo and allowing children to remain in care indefinitely through their policies and state laws. Agency and some court personnel have adapted the vocabulary of permanency planning and social workers are approaching each case with the goal of establishing a permanent outcome for the child. These are the first steps to making permanent placements a reality; however, change takes time, especially in a system in which a multitude of variables are impacting the lives of children and their families. The following issues highlight the areas of variation throughout the states as well as target the issues that need to be addressed in order for the various components of the dispositional hearings to be fully implemented. They have been divided into overall system issues and issues specific to hearing procedures.

7.4.1 Overall System Issues

State Laws

State laws establishing adequate dispositional hearing mechanisms are badly needed. There is serious legal debate whether the dispositional hearing requirement of federal law is binding on local courts without passage of state law provisions.

Site visit interviews revealed that except where recent legislation had been passed based on Public Law 96-272, some local judges, referees, and attorneys had not heard of the federal law. They were, however, usually familiar with the requirements of the state law with which they were forced to work on a daily basis. This suggests that even if federal law were binding, the relevant actors will not know about it unless it is embodied in state law.

Passage of a state law also gives the agency "bargaining chips" in ensuring that the hearings are held. When the law mandates the hearings at certain intervals the agency may insist on their being held, while agencies have reported great difficulty in obtaining hearings when they are discretionary with the court. (See discussion throughout for substantial differences in a number of the state laws.)

Implementing Change All At Once

In order to be in compliance with the Section 427 requirments, many states have had to conduct literally hundreds of hearings in a very short time span. This push has resulted in a perfunctory review of many children in care. Consideration should be given to allowing states to develop a review schedule for backlogged cases on an incremental time schedule.

Reunification, Prevention Services, and Alternative Placements

An effective dispositional hearing cannot be implemented in a vacuum. If permanent placement decisions are to be made and have impact on family and children's lives, then an entire spectrum of services need to be available. P.L. 96-272 does address reunification services, prevention services, and adoption subsidy. Children come into care unnecessarily when services cannot be provided to them in their homes and judges are reluctant to return them home when they believe inadequate services will be provided to the family to protect the child there. The single most troublesome observation of the potential impact of the dispositional hearing requirement was that Public Law 96-272 did not provide adequate funding to initiate new preventive and reunification service efforts. As a result, to the extent that dispositional hearings required a "final" decision on the child's future status at 18 months, the decision would more often be termination of parental rights in cases in which the child might have been returned home had adequate services been provided. A further difficulty was that to the extent the dispositional hearing requirement was not interpreted as requiring a final decision, courts would refuse to order the agency to initiate termination action when they perceived no service effort had been made.

While many recognized that savings from foster care could ultimately fund a significantly improved level of services, the savings are not immediate and the states lack funds to establish new programs.

In addition, expanded alternatives are needed for the permanent placement of children. One suggested alternative was subsidized guardianships for situations in which termination of parental rights is inappropriate.

Relationship to Earlier Court Proceedings

When a decision must be made on the child's future status at or before eighteen months, parents should receive adequate warning of this deadline at earlier stages of the legal proceeding such as disposition and periodic reviews.

Court-Agency Relationship

As court and agency interaction is becoming more interdependent, formal mechanisms to promote communication and coordination are necessary. In order to promote better understanding of each other's strengths and limitations, joint policy decisions between the two systems need to be made and agency personnel need suggestions on the most effective ways to gain court cooperation. The study's advisory committee suggested that a motivated judge is the best way to ensure cooperation. It was recommended that judges responsible for juvenile cases can be motivated by getting the Supreme Court in the state to support the importance of dispositional hearings as well as getting the support of the State Council of Juvenile Court Judges.

Training

P.L. 96-272 creates a new role for many judges, lawyers and social workers, and training is necessary so that these personnel are not ill-prepared. Training issues include legal issues, permanency planning issues, the role and authority of the dispositional hearing, and decisionmaking. If possible, it would be advantageous to bring judges, social workers and lawyers together for some training sessions, however, each also needs specialized training in the context of their own disciplines. It has also been suggested that a handbook on P.L. 96-272 be developed for parents.

Funding

Court and agency personnel indicated a need for funding to be able to provide the mechanisms and services necessary to ensure permanent placements for children. A funding mechanism through P.L 96-272 for the state court systems as well as state child welfare agencies should be provided. The majority of respondents interviewed noted that the implementation of dispositional hearings will increase their workload, and funding will be necessary to accommodate this increase.

Appropriateness of the Dispositional Hearing Requirements for Adolescents

One result of the dispositional hearing requirement has been to focus on the lack of adequate permanent placement options for adolescents. Many questioned the appropriateness of the process for older teenagers; others believe these youngsters are also in need of stable homes and should have their needs addressed by the court. The greatest frustration seemed to be that workers and judges believed there was nothing very good to be done for these children and therefore it seemed almost futile to them to examine these cases. Obviously another approach would be to direct national attention to trying to develop good options for these youngsters.

State Termination Statutes

The inability to terminate parental rights due to weak state statutes is a critical issue in many states. A number of state statutes have time frames in excess of eighteen months so that in many cases it would not be possible even to file for termination of parental rights for some time after eighteen months. Also, in some states, the court which conducts the dispositional hearing does not conduct the termination hearing and without strict guidelines for terminations, they do not occur. Some states have implemented termination laws which allow the state agency to file for termination of parental rights if parents are unable or unwilling to provide for their children within specific time frames. These statutes are extremely important if permanent decisions are to be made for children.

Interstate Placement

Some children are not having timely dispositional hearings due to delays in interstate compact. Agencies did not want to be penalized for delays because there was difficulty in getting approval through state interstate compact offices.

Indian Children

There is tremendous concern among agency personnel about the predicament they are currently being placed in by the federal government. Agency staff indicated that the state agencies are being held responsible for ensuring that tribal services meet the 427 requirements, yet the state agency does not have the authority to make it happen. Agency personnel also indicated that money for implementing adequate services on the reservations is not available. Currently, the local agencies are developing agreements with the tribes. However, this is a slow and arduous process, for there are prejudices and lack of trust on both sides.

Voluntary Placements

Many states indicated that children placed voluntarily are not in care long enough to have dispositional hearings. However, when children are in voluntary placements for long periods court jurisdiction to hold dispositional hearings is often lacking. Unless state law provides for court jurisdiction over these children to conduct the hearings the court ordinarily has no authority over them as it would have none over children left by their parents with other relatives. Relatively few states have passed such legislation and as a result states have difficulty complying with the dispositional hearing requirements for these children when they are in care over 18 months, although their periodic six month reviews can be handled through agency administrative review.

Procedural Protections on Removal, Change of Visitation and Change of Placement

While our study did not focus especially on these aspects of Public Law 96-272, it became apparent that in some states the only "procedural protection" available for parents with respect to changes in visitation and placement was after the fact notification of the changes with no formal procedures to contest the decision. Procedural protections on removal of children from their homes are more widespread.

Flexibility

Although it is important that the intent of the dispositional hearing requirements of P.L. 96-272 be clearly stated, and that the definitions of the law be applied consistently, there also needs to be flexibility in the interpretation of how the federal law is to be implemented within each state. States need to be given autonomy within an overall structure so that implementation of the law allows for the uniqueness of a state's population, strengths and limitations.

7.4.2 Dispositional Hearing Proceedings

Legal Representation

Currently the quality and quantity of legal representation of parties (i.e., agency, parents, children) at dispositional hearing proceedings varies throughout the country. A number of issues were raised concerning legal representation at the hearings:

- Counsel is frequently not appointed for parents and children; in some areas agency staff often appear at judicial hearings without counsel.
- Is mandated legal representation desirable for all parties and for every dispositional hearing?
- Counsel for parents and children are often appointed only if the abuse, neglect or dependency case itself is contested (i.e., the parent denies the factual allegations). However, even if the dependency case itself is not contested, counsel for parents and child are needed in some cases after the disposition to follow the case planning process and reunification efforts, to argue for return at the periodic review and to

represent the interests of parents and children at the permanency planning hearing. Complicated issues such as the safety of the child if returned home and whether such strong emotional bonds exist that it is undesirable to terminate parental rights are addressed at these hearings, and parents and children, as well as the agency, should be provided the opportunity to be represented by competent counsel in presenting evidence on these issues. In addition, a better record, which may be used at later termination proceedings, is likely to be made if parties are represented.

- Counsel are an expensive budget item from the point of view of court budget offices. Budgetary restrictions were mentioned by many as the reason judges did not appoint counsel in more cases. Many, especially agency staff, believed money would be better spent for services to the families than for legal counsel.

- Court appointed counsel in these cases are often compensated at extremely low rates in comparison to going fees for attorneys in the community. In many areas only relatively young and inexperienced attorneys will accept the cases because of the low fees.

- While specialized attorneys, knowledgeable about child welfare law, were perceived by many as being extremely helpful in these cases, many attorneys handling them had had little or no training in child welfare matters and were not able to do as good a job as would be desired.

- Some respondents worried that mandating attorneys for all parties would make case decisions more adversarial and might result in unnecessary court continuances, legal delays and prolonged time in foster care. In addition, they feared a deleterious effect on social work practice from having to constantly anticipate presenting a case to court.

Scheduling

Although significant strides have been made in establishing policy changes necessary to establish dispositional hearings and to insure they happen in each case, several kinds of problems arise in the scheduling of these hearings.

Many court reviews are scheduled within a certain time period measured from the time of the court's initial disposition order rather than from the date the child was initially placed in foster care.

The technical aspects of scheduling and notification also cause problems. There are sometimes disputes between court and agency over who is required to schedule hearings and notify parties. Sometimes there is an inadequate tracking system either place to insure that hearings are held. Tracking systems based on foster care agencies payment records will miss children under court supervision placed with relatives who are not receiving foster care payments. Tracking systems based on court dispositions of foster care will miss children who are in voluntary placements. Perhaps one of the most inefficient scheduling systems are those that rely on each individual caseworker to keep track of his or her own cases and to file a formal request for a hearing when the time comes. An accurate tracking system is a must in insuring that hearings are timely scheduled.

Notification and Participation

One of the most basic procedural questions with respect to dispositional hearings is whether an actual hearing is held which is open to the participation of the concerned parties or whether there is merely a review of documentation submitted by the agency on the case with no opportunity for concerned parties to express their views or to present witnesses to the court. Unless parties are notified of the proceedings, they are effectively denied the right to participate. Unless they participate the court or court appointed or approved body must rely only on the agency for information about the case and parents are denied the right to participate in an important decision regarding their children.

While many states indicated that notification of parents was occurring the study revealed that the following problems with respect to notification of parties, particularly parents, still exist:

- In cases in which paper reviews are being conducted notification is not happening;
- Respondents reported that one-half of the court appointed/approved bodies did not have a written policy to notify parents of the review proceedings;
- In some cases only verbal notification is taking place;
- Written notice is sometimes sent up to six months prior to the scheduled hearing (i.e., as part of a previous court order);
- Notification sent through certified mail may not be picked up by parents;
- Disagreement between the agency and court over who is responsible for notification may result in neither sending notice;
- The information contained in the notice may be incomplete and not alert parents as to the purpose of the case hearing;
- Children, foster parents and counsel receive notice less frequently than parents (i.e., foster parents are only notified by 35 percent of the state surveyed).

These problems in notification obviously have an effect on participation of parties. It appears that actual participation of parties is influenced by many additional factors including attitudes of social workers, judges, and referees; whether the court or court approved body has sufficient staff time to devote to hearings so that parties believe they are and will be heard; and whether parties are represented by counsel. Participation by natural parents was found to vary dramatically, ranging from 90 percent participation in one site visit to 10 percent participation in another.

Procedural Safeguards

Basic due process safeguards required in any legal proceeding include not only notice, but the right to appear and present witnesses and cross-examine opposing witnesses, the right to a record of the proceedings, the right to an impartial decisionmaker, the right to a decision on the record (i.e., based only on information presented at the hearing), the right to a written decision, and the right to an appeal.

When hearings are held, rather than paper reviews, courts reported significant compliance with due process protections. However, the following problems were found:

- Opportunity to present witnesses: Twenty percent of judges responding indicated that there were at least some parties not allowed to present or cross-examine witnesses at dispositional hearings. A majority of the court appointed or court approved bodies holding "dispositional hearings" do not take sworn testimony.

- Record of proceedings: Twenty percent of judges indicated a record was not made at dispositional hearings. Referees and commissioners who hear many of these cases, are not required to make a record of their proceedings in some states. A majority of court appointed or approved bodies holding dispositional hearings do not record their proceedings.

- Impartial decisionmaker and decision "based on the record": While having a judge hold the dispositional hearing ensures the neutrality of the decisionmaker, court appointed or approved bodies in several states consist entirely or partially of agency staff. It may be difficult for them to be impartial. Similarly, they may possess information about the case and base their decision partly on that rather than only on information presented at the hearing. Social workers and judges in site visit states surprisingly frequently reported out-of-court discussions about individual cases.

- Written decision or findings: Most respondents issue written findings. However, these may consist of check-offs on pre-printed forms with no statement of the decisionmaker's reasoning.

- Appeal: Ninety percent of respondents reported that at least parent and child have the right to appeal the result of the dispositional hearing.

Decisionmaking Standards and Court Authority

If decisions on the child's future status and full authority to order that the decision be carried out are desired, it appears that legislation will be necessary to accomplish this result. At present, the following beliefs are being expressed:

- As noted earlier substantial numbers of judges and agency respondents do not believe that judges are required to make an actual decision on the child's future home within 18 months, rather they believe they are required only to review the case plan goal by that time.
- While a majority of the judges believed they have authority to order a child's return home, to order the child's placement in long-term foster care, or to order the agency to provide services to the family with a plan of returning the child home in a specified time, a majority of judges believed they lacked authority to order the agency to commence termination of parental rights proceedings or to order the agency to commence guardianship proceedings.

Court Appointed/Approved Bodies Conducting Hearing

The use of court appointed/approved bodies raises several concerns. First, in some instances their decisions are not binding on the agency nor is there a mechanism for automatic court review. Procedural protections for parties are minimal: parties (including parents) are less frequently required to be notified of the hearing. In a majority of cases, sworn testimony is not presented nor is a record made of the proceeding. Because the review body may include primarily agency staff, the impartiality of the group is uncertain as is its ability to make a decision based solely on the record.

In some situations, these court appointed/approved bodies act as the preliminary review and contested issues are then heard by a judge. This arrangement partially addresses the concerns raised earlier and helps to alleviate backlogged court dockets. It is imperative that all individuals involved in these reviews be advised of the purpose of the review and their rights to appeal decisions/recommendations that are made.

APPENDIX A

BREAKDOWN OF AGENCY AND COURT RESPONSES FOR TABLES IN CHAPTER 6

Exhibit A-1. Problems cited due to existing state laws and policies in implementing P.L. 96-272

Absence or conflict with state law

- State law conflicts with P.L. 96-272
- Absence of state laws/procedures

Inadequate legal representation for agency, parents and children

- Agency needs legal counsel in order to bring case into court
- Lawyers unprepared
- Lack of funds for attorneys to represent child

No reason for court to comply with law

- No motivation for courts to comply
- Autonomous county court system inhibits statewide compliance

Court procedural requirements

- Court time requirements on submission of reports occur too soon
- No procedure for introducing cases retroactively into court
- Excessive time spent waiting at court house
- Court reports sent to all parties, violates confidentiality
- Inadequate sanctions against agency
- Lack of judicial training

Exhibit A-2. Cited benefits of P.L. 96-272

Protect children's rights

- Protection of child rights
- Improves mental health of child
- Provides children opportunity to express feelings and speak with judge

Increase agency accountability

- Increased agency accountability
- Additional safeguard/check on system
- Motivates worker to be well prepared
- Provides independent review with due process

Permanent plan becomes a priority

- Permanent plan becomes a priority
- Specific goals are set
- Speeds up termination process

More emphasis on reunification/rehabilitation of family

- Rehabilitation/reunification of the family
- Provides parents opportunity to learn better parenting
- Worker tends to work more with family system problems rather than one-to-one with the child
- Agency tends to compromise and provide more in-home services
- Provides a current evaluation and assessment of family situation

Exhibit A-2 (Continued)

Protect parents' rights

Increased judicial involvement

- Court assumes responsibility for its decision
- Legal support for agency plan

Prevents foster care drift

- Less time in foster care
- Prevents foster care drift
- Reduce number of children in foster care

Increased participation of parties

Reduce cost of foster care

Agency/court relationship

Improves public understanding of foster care

Exhibit A-3. Cited problems in implementing P.L. 96-272

Need for training for judges, lawyers, agency staff

- Need for training of lawyers
- Need for training of judges
- Need for training of agency staff

Legal representation is inadequate for parents, children, and/or agency

- Legal representation of agency
- Legal representation of children
- Legal representation of parents
- Legal counsel should be assigned in time to be adequately prepared

Increased workload

- Increased court workload
- Extra time needed in preparation for hearings/reviews - extra paperwork
- Lack of work support
- Increased agency staff workload due to specificity and number of goals set
- Need for staff to link agency and court
- Need for more judges

Low priority given to dependency cases by courts

- Low priority given to dependency cases by court
- Rotation of judges (no continuity in case)

Exhibit A-3 (Continued)

Legal delay

- Continuances put hearing time out of compliance
- Continuances create scheduling problems
- Excessive time spent waiting in court room
- Inadequate sanctions

Lack of adequate funding

- Need for more court funding
- Need for more agency funding

Agency/court relationship

- Agency held responsible for failure of courts
- Court influenced by relationship with attorney or agency
- Lack of state statutes

Clarification of the law

- Courts confused about definition of "dispositional hearing"
- Lack of judicial input in legislation
- Lack of federal regulations

Procedural problems

- Timeliness of agency reports
- Difficulty in tracking cases
- Lack of transportation/access for interested parties
- Lack of parental response
- Redundancy of reviews
- Need for time to modify/bring into compliance existing state procedures

Exhibit A-3 (Continued)

Hearings negatively affect the family

- Hearings can be disruptive
- May slow down permanency planning
- Continuances can be traumatizing for the child
- Adversarial nature of court hearings inhibits reunification of families

Time frames

- Eighteen months is too long a time before having hearing
- Time frames too rigid

APPENDIX B

CASE REVIEW REQUIREMENTS OF STATE STATUTES

Case Review Requirements of State Statutes
(Including Separate Permanency Planning Hearings)
Based on latest statutory compilation or
supplement available January 30, 1983

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
Alabama Ala. Code § 12-15-74 (1977)				Ala. Code § 12-15-74 (1977) Upon motion of child custodial agency or individual with custody may modify, revoke, or extend initial disposition.		
Alaska Alaska Stat. §§ 47.10.080 (a), (c), (f) (Supp. 1979)				Alaska Stat. § 47.10. .080(f) (Supp. 1979) Review on motion if good cause shown.	Alaska Stat. § 47.10.080(f) (Supp. 1979) Court review of placement order annually, possibly more frequently to determine if order remains in interests of minor and public.	

* Statutes included in the far right column "Permanency Planning Hearing" require the court to select the child's status from among alternatives enumerated in the statute. These statutes require the court to consider termination of parental rights as one of the alternatives. Statutes that only specifically provide for the court to extend foster care where appropriate are not included in this category. They are included under the category "periodic review" or "foster care extension hearing". Where the statute requires the agency to seek a court ruling but does not require the court to select an alternative, the statute was put in the "judicial review" category but not under "permanency planning hearing". An effort was made to include marginal cases under "permanency planning hearing". So, for example, a state that had a requirement that the court determine at a particular point in time whether parental rights should be terminated, or whether a termination action should be filed, would be included under "permanency planning hearing".

Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
Alaska (con't)					Alaska. Stat. § 47.10.080(a)(c) (Supp. 1979) Hearing at two years to extend order.	
Arizona Ariz. Rev. Stat. Ann. §§ 8-511.B, 8-515.C-.H, 8-515.03 (Supp. 1982)		Ariz. Rev. Stat. Ann. § 8-515.03 (Supp. 1982) 6-month review by local foster care review board appointed by local court to determine permanency plan implementation. Board is to "encourage" return home or termination of parental rights if grounds exist.	Ariz. Rev. Stat. § 8-511.B (Supp. 1982) Plan for permanent placement of the child required; must be sent to court. Ariz. Rev. Stat. Ann. § 515.03.02 (Supp. 1982) Review board must submit findings and recommendations to court within 30 days.		Ariz. Rev. Stat. Ann. § 8-515.C-.H (Supp. 1982) Court review after child in foster care for period of one year, court may reaffirm order disposition. Subsequent yearly reviews made when child remains in foster care.	

Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
Arkansas Ark. Stat. Ann. § 45.436(5)(a) (Supp. 1981)					Ark. Stat. Ann. § 45.436(a) (Supp. 1981) Court shall hold hearing or review case every six months to determine whether order should be continued, modified or terminated.	
California Cal. Welf. & Inst. Code §§ 365, 366,366.2-.25, 16503 amended by Act of August 26, 1982, ch. 978, 1982 Cal. Stat. 5-49	Cal. Welf. & Inst. Code § 366, 16503 Administrative reviews to be conducted every six months for children remaining in foster care after permanency planning hearing unless court hearing held instead. Review must be open to participation of parents and		Cal. Welf. & Inst. Code § 365 Court may require agency to submit periodic reports.		Cal. Welf. & Inst. Code § 366, 366.25(g) Hearing required every six months to determine continuing necessity for and appropriateness of placement, compliance with plan, and progress, and to determine likely date for	Cal. Welf. & Inst. Code § 366.25 Permanency planning hearing required no later than 12 months after original placement and at 18 months thereafter. Court required to return child home unless child

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Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
California (con't)	panel must include at least one person not responsible for the case.				return home or guardianship. If court holds six month reviews after permanency planning hearing same matters are to be covered.	remains at risk of substantial detriment. If not returned, court to set further hearing in six months if there is substantial probability minor can be returned then. If not, court to select among termination of parental rights, guardianship or long-term foster care under statutory guidelines.
Colorado Colo. Rev. Stat. §§ 19-3-115(4)(a), (b), (c) (Supp. 1982)					Colo. Rev. Stat. § 19-3-115(4)(a) (Supp. 1982) Placement decree shall be reviewed	

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Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
Colorado (con't.)					by court no later than three months after it is entered, except decree vesting legal custody of a child with the dept. of institutions. Colo. Rev. Stat. § 19-3-115(4)(b) (Supp. 1982) Upon petition of custodial individual or custodial institution or agency, court may after hearing renew the decree for additional determinate period. Colo. Rev. Stat. § 19.3-115(4)(C) (Supp. 1982)	

Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
Colorado (con't)					Placement decree shall be reviewed every six months after initial review.	
Connecticut Conn. Gen. Stat. Ann. §§ 46b-129(e), (9) (West Supp. 1982)				Conn. Gen. Stat. Ann. § 46b-129(g) (West Supp. 1982) Application by parent, relative, selectman, or any original petitioner, or licensed child-caring agency, to modify order permitted every six months.	Conn. Gen. Stat. Ann. § 46b-129(e) (West Supp. 1982) Ninety days before expiration of each two year commitment, the Commissioner of Children and Youth Services shall petition court to extend commitment, or terminate parental rights. Court may, upon finding extension in best interest of child, extend commitment for a two year period.	

Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
Delaware Del. Code Ann. tit. 31, §§ 3808(a), 3814 3815, 3816, (Supp. 1982)		Del. Code Ann. tit. 31, § 380-3815 (Supp. 1982) Foster Child Review Board, appointed by the governor, reviews foster care cases to a maximum of 400, annually. Individual child's case may be reviewed twice yearly. After review, Board issues a report within 15 days to agency and other parties.		Del. Code Ann. tit. 31, §§ 3814-3816 (Supp. 1982) If agency disagrees with Foster Child Review Board recommendation, it or another party may petition the court for a judicial hearing which shall be held within 15 days after the petition is filed. The court may return child home, continue placement under current or revised plan, or appoint attorney to represent child and recommend attorney file a termination case on child's behalf. Board may also petition		

Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
Delaware (con't)				for a judicial hearing if there has been no documented action toward achieving permanent plan during one year period.		
District of Columbia D.C. Code Ann. §§ 16-2322(b), 16-2323, 16-2323(b), 16-2355, 16-2360(b) (1981)			D.C. Code Ann. § 16-2323(b) (1981) Report to court required ten days prior to each review hearing		D.C. Code Ann. § 16-2323 (1981) Court review required every 6 months after disposition order entered for those under 6 and for those during the first 2 years of placement; all other cases once a year.	D.C. Code Ann. § 16-2355 (1981) For any child who has been in placement for more than 18 months and for whom in the previous 12 months there was no hearing on a termination notice, court at next review hearing must determine why no motion to terminate has been filed. Such a

Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
District of Columbia (con't)					D.C. Code Ann. § 16-2322(b) (1981) Extension of commitment hearings must be held after 2 years in placement and every year thereafter. D.C. Code Ann. § 16-2360(b) Hearing required within 6 months of termination order and at 6 months intervals thereafter to report on progress toward a permanent placement.	determination also required for each [illegible] in care for more than 3 years at each annual review.

Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
Florida Fla. Stat. Ann. §§ 409.168(3)(a), (3)(a)(3), (3)(c), (3)(f), (3)(g) (Supp. 1981)			Fla. Stat. Ann. § 409.168(3)(a) (Supp. 1981) Performance agreement to be prepared within 30 days of placement and submitted to court. (Eff. 1977).	Fla. Stat. Ann. § 409.168(3)(a)(3) (Supp. 1981) Parent who has not participated in development of plan may seek review of plan prior to initial 6 month judicial review.	Fla. Stat. Ann. § 409.168(3)(f)2 (Supp. 1981) Court review hearing required six months after placement whether voluntary or involuntary and at least annually after date of placement.	Fla. Stat. Ann. § 409.168(3)(c) (Supp. 1981) Agency must file for termination of parental rights, unless at second annual judicial review court returns child home or finds by clear and convincing proof that the child's situation is so extraordinary the performance agreement with parents should be extended. Extension can be for no longer than 6 months for younger children, 12 months for children 13 and older.

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Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
			Fla. Stat. Ann. § 409.168(30)(g) (Supp. 1981) Written report required to be provided to court and to parties or their attorneys 48 hours before judicial review hearing.			
Georgia Ga. Code §§ 15-11-41(c)(1), 15-11-54(c) (1982)					Ga. Code § 15-11-41(c)(1) (1982) Hearing to be held prior to expiration of order upon party's or court's own motion in order to extend.	

Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
Georgia (con't)					Ga. Code § 15-11-54(c) (1982) If child not adopted within two years after date of termination order and a general guardian has not been appointed, child shall be returned to court for further orders.	
Hawaii Hawaii Rev. Stat. §§ 571-48(3), 571-50 (1976)				Hawaii Rev. Stat. § 571-50 (1976) Hearing held upon motion of interested party.	Hawaii Rev. Stat. § 571-48(3) (1976) Hearing upon petition for renewal of placement order. Order effective maximum of three years.	

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Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
Idaho Idaho Code §§ 16-1611(a), 1623 (Supp. 1982)	Idaho Code § 16-1623 (Supp. 1982) Dept. of Health & Welfare makes periodic evaluations to determine if a decree should be modified. Evaluations must be made at least every six months. [There is no statutory definition of the reviewer.]		Idaho Code § 16-1623 (Supp. 1982) A report by the Dept. of Health & Welfare of the evaluation must be filed with the court.	Idaho Code § 16-1611(a) (Supp. 1982) Hearing on petition for modification or revocation of dispositional order upon motion of parent or guardian ad litem. Petition cannot be filed within 3 months of prior hearing on care and placement of child [dispositional hearing].		
Illinois Ill. Ann. Stat. ch. 37, §§ 705-2(d) (3), 705-8(1), (2), (3), (4) (Supp. 1982-83)		Ill. Ann. Stat. ch. 37, § 705-8(2) (Supp. 1982-83) Agency must file supplemental petition for review by court	Ill. Ann. Stat. ch. 37, § 705-8 (1) (Supp. 1982-83) Court may require child's guardian or custodian to	Ill. Ann. Stat. ch. 37, § 705-2(d)(3) (Supp. 1982-83) Order of disposition subject to modification until discharge	Ill. Ann. Stat. ch. 37, § 705-8(2) (Supp. 1982-83) Agency must file supplemental petition for review by	

Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
Illinois (con't)		or administative body appointed or approved by court within 18 months of the dispositional order and every 18 months thereafter.	report to the court periodically at specific time on "doings on behalf of the minor."	of proceedings.	court or administrative body appointed or approved by court within 18 months of the dispositional order and every 18 months thereafter.	
			Ill. Ann. Stat. ch. 37, § 705-8(2) (Supp. 1982-83)	Ill. Ann. Stat. ch. 37, § 705-8(3), (4) (Supp. 1982-83)		
			Child's guardian or custodian shall file updated case plan with court every six months.	Minor or any person interested in minor may apply to court for change in custody of the minor, but but return to parent, where child adjudicated neglected as a result of physical abuse, requires investigation and hearing on parental fitness.		

Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
Indiana Ind. Code Ann. §§ 31-6-4-19(a), (b), (c), (d), (e), 31-6-7-16 (Burns 1980)			Ind. Code Ann. § 31-6-4-19(a) (Burns 1980) Court may order county or probation department to file a report on progress in implementing the decree any time after disposition. Ind. Code Ann. § 31-6-4-19(d)(e) (Burns 1980) Prior to both the 12 and 18 month hearings, probation or county department must prepare dispositional decree progress report.	Ind. Code. Ann. § 31-6-7-16 (Burns 1980) Court may modify any dispositional decree upon own motion or that of other interested party. A hearing may be required.	Ind. Code Ann. § 31-6-4-19(b) (Burns 1980) Every 12 months court must conduct a formal hearing to determine if dispositional decree should be modified. Court to consider services, change of circumstances, parental cooperation, etc.	Ind. Code Ann. § 31-6-4-19(c) (Burns 1980) Every 18 months after date of original disposition, court must hold a formal hearing on question of continued jurisdiction. To continue jurisdiction state must show objectives of decree have not been met and that continuation of decree has probability of success. If state cannot justify continued court jurisdiction, the court may authorize a petition for termination of parental rights or may return the child home.

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Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
Iowa Iowa Code Ann. §§ 232.102.5, .6 (West Supp. 1982)			Iowa Code Ann. § 232.102.5 (West Supp. 1982) Agency must submit placement plan to court subsequent to court ordered transfer of custody of child to agency per dispositional hearing.		Iowa Code Ann. § 232.102.6 (West Supp. 1982) Court hearing required every six months. See permanency planning hearing.	Iowa Code Ann. § 232.102.6 (West Supp. 1982) Hearing required every six months after an order of placement to review placement and decide whether child should be returned home, placement should be extended, or a termination of the parent-child relationship should be pursued. Child to be returned home if court finds child will not suffer harm there as specified by statute. If placement is extended court should determine whether additional services are needed and order them.

Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
Kansas Kan. Stat. Ann. §§ 38-1503(d), 1565(b),(c) 1566, 1584(c) (Supp. 1982)			Kan. Stat. Ann. § 38-1565 (Supp. 1982) Where dispositional order required out of home placement and no plan was made part of record of disposition, a written reintegration plan must be submitted to court not later than 60 days after dispositional order. Kan. Stat. Ann. § 38-1565(b) (Supp. 1982) Progress report required to be	Kan. Stat. Ann. § 38-1503(d) (Supp. 1982) Court on own motion or motion of interested party may enter order discharging child. Kan. Stat. Ann. § 38-1566 (Supp. 1982) Within 10 days of notice from Secretary of change of placement, person receiving such notice may petition court for hearing to determine if placement in best interest of child.		

Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
Kansas (con't)			made to court every six months. Kan. Stat. Ann. § 38-1584(c) (Supp. 1982) Where parental rights terminated, agency or person awarded custody must submit a written permanent placement plan to court within 60 days and must report to the court at least each six months thereafter. Court must review the report and determine whether to hold a hearing or to issue further orders.	Kan. Stat. Ann. § 38-1565(c) (Supp. 1982) Court shall review report submitted every six months by agency and if court determines progress is inadequate, court *may* hold hearing and rescind or modify its dispositional order. Kan. Stat. Ann. § 38-1584(c) (Supp. 1982) If court determines inadequate progress is being made toward finding adoptive home or establishing long term foster care plan; court may hold hearing and make new, appropriate orders.		

Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
Kentucky Ky. Rev. Stat. Ann. §§ 208.685, .705(1), .710, .715, .725, .730, .735, .740; 208A.170 (Baldwin 1982)		Ky. Rev. Stat. Ann. §§ 208.685, .715, .725, .730, .735, .740 (Baldwin 1982) A foster care citizen review board may be established in each judicial district, appointed by the court. Where boards exist, they shall review the case of each child in foster care in their county every six months.	Ky. Rev. Stat. Ann. § 208.705(1) (Baldwin 1982) Case permanency plan must be filed by Dept. of Human Resources with court and local foster care review board within 30 days of commitment. Ky. Rev. Stat. Ann. § 208.710 (Baldwin 1982) Case progress report required to be filed by agency with court and citizen review board where established. Ky. Rev. Stat. Ann. § 208.735 (Baldwin 1982)	Ky. Rev. Stat. Ann. § 208A.170 (Baldwin 1982) An order of commitment or protective supervision may be terminated early on motion of the court or an interested party.		

Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
Kentucky (con't)			The citizen review board must report its findings to the court within 10 days regarding whether there is a plan for permanence, whether it is appropriate and whether it is progressing.			
Louisiana Act of July 22, 1982, ch. 17, 1982 La. Sess. Law. Serv. 2048 (West) Act of July 22, 1982, ch. __ 1982 La. Sess. Law. Serv. 2046-47 (West) La. Rev. Stat. Ann. §§ 1580.2, § 1603.B. (West 1978)			La. Code Juv. Proc. art. 90(c) amended by Act of July 22, 1982, ch. 17, 1982 La. Sess. Law. Serv. 2048 (West) Agency or individual must submit report to court making assignment not less than every six months. La. Rev. Stat. Ann. § 1580.2 (West 1978)	La. Code Juv. Proc. art 91.c., 93 Upon own motion or motion of probation officer, court may modify judgment of disposition without contradictory hearing if conditions of disposition being made less restrictive. La. Code Court and Jud. Proc. art. 13; § 1601 amended and reenacted by Act of July 22, 1982, ch. __, 1982 La. Sess. Serv. 2046-47 (West)		

Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
Louisiana (con't)						
La. Code Juv. Proc. Ann. art. 91.c., 93 (West 1978)			Where custody assigned to Department of Health and Human Resources, it shall file written status report with court six months after initial placement and every twelve months thereafter. La. Rev. Stat. Ann. § 1580.2 (West 1978) Court must consider reports filed by the Department six months after initial placement and every twelve months thereafter,	Upon its own motion the court may order the district attorney to file a termination proceeding.		

Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
Louisiana (con't)			and may hold a hearing to determine whether the child should remain in foster care, return home or receive alternate care.			
					La. Rev. Stat. Ann. § 1603.B (West 1978) When a termination action is brought respecting a child who has been abused or neglected and evidentiary standard is not met, court must review case every six months thereafter to determine whether parental rehabilitation has occurred.	

Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
Maine Me. Rev. Stat. Ann. tit. 22, §§ 4038.1, .2, 4041.1.D (Supp. 1982-1983).				Me. Rev. Stat. Ann. tit. 22, § 4038.2 (Supp. 1982-83) Court, child's parents or custodian or a party to the original proceeding may move for judicial review. Me. Rev. Stat. Ann. tit. 22, § 4041.1.D (Supp. 1982-83) Welfare agency shall petition for judicial review and return of child at "earliest appropriate time."	Me. Rev. Stat. Ann. tit. 22, § 4038.1 (Supp. 1982-83) After final protection order (disposition order) issued, court must review case every 18 months unless child is adopted or emancipated. No review is required if child was ordered into custody before April 3, 1980.	

Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
Maryland Md. [Soc. Serv. Admin.] Code Ann. §§ 115-120 (19__ & Supp. 1982)		Md. [Soc. Serv. Admin.] Code Ann. §§ 115-120 (19__ & Supp. 1982) Citizen board appointed by the governor to conduct six month periodic reviews to determine efforts to acquire permanent home for child and to encourage and faciliate return home, adoption and guardianship in that order.	Md. [Soc. Serv. Admin.] Code Ann. § 119 (19__ & Supp. 1982) Written report to the court from the review board required in each case assessing whether return home, continued out-of-home placement or termination of parental rights is in the child's best interest.			
Massachusetts Mass. Ann. Laws ch. 119, § 26(3) (Michie/Law Co-op. 1975)				Mass. Ann. Laws ch. 119, § 26(3) (Michie/Law Co-op. 1975) Department, parents, legal custodian or child's counsel may petition court for review and redetermination not more than once every six months.		

Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
Michigan Mich. Stat. Ann. §§ 27.3178 (598.19)-(598.19a), (598.21) (Callaghan 1980)				Mich. Stat. Ann. § 27.3178 (598.19) (Callaghan 1980) Court may terminate case or issue a "supplemental order of disposition" at any time or from "time to time." Mich. Stat. Ann. § 27.3178 (598.21) (Callaghan 1980) Any interested party may petition for a rehearing and court may modify order.	Mich. Stat. Ann. § 27.3178 (598.19) (Callaghan 1980) Case must be reheard not more than six months after disposition placing child in foster care; parents shall appear to show efforts to reestablish a home for the child.	Mich. Stat. Ann. § 27.3178 (598.19)-(598.192) (Callaghan 1980) If child remains in foster care for 1 year for court to rehear case, parent must show their efforts to reestablish a home for the child and show why the child should not be placed in the permanent custody of the court (why parental rights should not be terminated). If child continued in foster care, case is to be reheard annually thereafter.

Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
Michigan (con't)						Parental rights may be terminated if statutory criteria are met.
Minnesota Minn. Stat. Ann. §§ 257.071 (Subd. 2), (Subd. 3) (West 19__) Minn. Stat. Ann. § 260.191.2 (West 1982)	Minn. Stat. Ann. § 257.071 (Subd. 2) (West 19__) Agency must conduct administrative review of case plan 180 days after initial placement in the cases of children voluntarily placed in foster care. Alternatively, agency may petition court for review of those cases within six months of placement.		§ 260.191.2 Legal custodian shall report to court in writing at such periods as court may direct.	Minn. Stat. Ann. § 257.071 (Subd. 2) (West 19__) As alternative to six-month internal placement review, agency may petition the court for review of voluntary placement cases within six months of placement.	Minn. Stat. Ann. § 257.071 (Subd. 3) (West 19__) Eighteen months after initial placement, agency must return the voluntarily placed child to parents or file a court petition. If petition dismissed, agency must petition court every two years to determine if placement in best interests of child.	

Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
Minnesota (con't)					Minn. Stat. Ann. § 260.191.2 (West 1982) Order placing child in care may last a maximum of one year but may be extended on court's motion or motion of a party after notice and a hearing.	
Mississippi Miss. Code Ann. §§ 43-15-13(1), (2), 43-21-613 (2),(3) (1972 & Supp. 1982)	Miss. Code Ann. § 43-15-13(1), (2) (Supp. 1982) State Dept. of Public Welfare shall conduct an annual review for each child under its custody. Review to cover support and contact by parents, compliance with case-plan; methods for		Miss. Code. Ann. § 43-15-13(2) (Supp. 1982) Department's annual review plan to be filed with the court and may be made available to parents and foster parents with court approval.	Miss. Code Ann. § 43-21-613(2) (1972) Upon motion of a child, child's parents, guardian or custodian court may, in its discretion, conduct an informal hearing to review disposition order and may modify the disposition order		

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Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
Mississippi (con't)						
	achieving plan; services offered. Review to be conducted by departmental personnel and may include others appointed by commissioner of public welfare.		Miss. Code Ann. § 43-21-613(3) (1972) Court is required to review all orders for placement at least annually to determine if continued placement is in the child's and public's best interest. (No specific requirement that hearing be held). The court may require written reports from custodian, parents or others.	if it finds a material change of circumstances. Miss. Code Ann. § 43-15-13(2) (Supp. 1982) Court which receives annual review plan shall "where appropriate, initiate proceedings on its own motion."		

Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
Missouri Mo. Ann. Stat. §§ 3210.710, .720, .730, 211.251 (Vernon 1962 & Supp. 1983)			Mo. Ann. Stat. § 210.710 (Vernon Supp. 1983) Agency to provide a written report on status of child after six months in voluntary foster care. Mo. Ann. Stat. § 210.720 (Vernon Supp. 1983) Foster family agency or institution with whom child placed by court to file a report with the court every six months after the child is placed and court to "review" reports.	Mo. Ann. Stat. § 211.251 (Vernon 1962) Court may modify decree on own motion. Parent, guardian custodian, spouse relative or next friend of child committed to custody of agency may petition at anytime for modification of custody. Court may deny motion or hold hearing.	Mo. Ann. Stat. § 210.730 (Vernon Supp. 1983) Court to review status of children continued in foster care after dispositional hearing every six months. Mo. Ann. Stat. § 210.710 (Vernon Supp. 1983) Court to review reports submitted every six months by child's custodian.	Mo. Ann. Stat. § 210.710, .720 (Vernon Supp. 1983) Dispositional hearing required after child in voluntary placement six months or court ordered placement 18 months (and annually thereafter) to determine whether to continue child in foster care, return child to parents, guardian or relative or whether to institute a termination of parental rights, case to free child for adoption.

Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
Montana						
Mont. Code Ann. § 41-5-807 (1981)		Mont. Code Ann. § 41-5-807 (1981) Youth court judge to appoint a Foster Care Review Committee in every judicial district (includes departmental representative). Committee to review cases of all children in foster care under court or department supervision, within time limits established by department, and in conformance with federal law but no later than 12 months after placement.				
			Mont. Code Ann. § 41-5-807 (1981) Foster Care Review Committee must submit written report of			

Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
Montana (continued)			findings and recommendations to court and agency within 30 days of review, for further action by the youth court or the department.			
Nebraska Neb. Rev. Stat. §§ 43-1304-1310, 1313 (1943 & Supp. 1982)		Neb. Rev. Stat. § 43-1304-1310 (1943 & Supp. 1982) Local foster care review boards are to review the case of every foster child in care six months to determine efforts made toward rehabilitation of foster child and family unit or permanent placement.	Neb. Rev. Stat. § 43-1308(2) (Supp. 1982) Review board report to be submitted to court within 30 days of review with findings and recommendations on efforts to carry out the plan.		Neb. Rev. Stat. § 43-1313 (Supp. 1982) Court reviews dispositional order after one year, then every six months thereafter.	

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Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
Nevada Nev. Nev. Stat. § 62.261 (1981)			§ 62.261(2) (1981) In conducting a review the court may require a written report from child's protective service worker.	§ 62.261(6) (1981) Court may order review or similar proceeding other than semiannually.	§ 62.261(1) (1981) Semiannual court review of placement of each foster child to decide whether continued placement is in the child's best interest and whether child is being treated fairly.	§ 62.261(3),(4) (1981) Court must hold dispositional hearing no later than 18 months after initial semiannual hearing, and at least annually thereafter. Hearing must determine whether child should be returned to parents or relatives, continued in foster home, placed for adoption or legal guardianship or remain in foster care.

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Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
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New Hampshire N.H. Rev. Stat. Ann. §§ 169-C:22, 23, 24 (Supp. 1979)			N.H. Rev. Stat. Ann. § 169-C: 24 (Supp. 1979) Agency must submit report and dispositional recommendation to court 14 days prior to annual review. A copy of the report is to be sent to all parties.	N.H. Rev. Stat. Ann. § 169-C: 22 (Supp. 1979) Upon motion of child, parent, custodian or agency alleging changed circumstances, court shall hold hearing and may modify dispositional order.	N.H. Rev. Stat. Ann. § 169-C: 24 (Supp. 1979) Annual court review to review status of all children out of parent's custody and under legal supervision.	
				N.H. Rev. Stat. Ann. § 169-C: 24 (Supp. 1979) The court may review a case, on request of a party at any time.	N.H. Rev. Stat. Ann. § 169-C: 23 (Supp. 1979) To obtain return of child, parents must show they are in compliance with the court order; the child would not be endangered, and return would be in the child's best interest.	

Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
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New Jersey N.J. Stat. Ann. §§ 30:4C-54, 56(a), 57-61 (West 19__) N.J. Rev. Stat. § 9:6-8:54 (19__)	N.J. Stat. Ann. § 30:4C-56(a) (West 19__) Division must conduct regular reviews of each child's case.	N.J. Stat. Ann. §§ 30-4C-57-60 (West 19__) Child placement review board, appointed by judge in each county, reviews cases of each child placed in care voluntarily or by court order within 45 days of initial placement and every 12 months, thereafter. Child placement review board reviews appropriateness of plan, compliance with it, obstacles to its achievement, visitation, siblings, child's wishes.	N.J. Stat. Ann. § 9:6-8:54 (19__) (West 19__) Person or agency with whom child placed must submit report to court at end of period of placement. N.J. Stat. Ann. §§ 30-4C-57-60 (West 19__) Within 10 days of review, board must submit written report to court finding that: return, continued out-of-home placement under same or changed plan or termination of parental rights is in the best interests of the child.		N.J. Rev. Stat. § 9:6-8:54 (19__) Placement may be for maximum of 18 months after which court must hold hearing to extend order and may, upon hearing, make successive extensions of one year each.	

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Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
New Jersey (con't)			N.J. Stat. Ann. § 30.4C-61 (West 19__) Court to review board's report and issue an order returning child home, continuing placement under same or modified plan or recommending agency initiate termination of parental rights proceedings. The court may make a determination based on the report only or may hold a hearing if there is conflicting evidence, a party requests it, or the interests of justice require it.			

Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
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New Mexico N.M. Stat. Ann. § 32-1-38.1 (Supp. 1982)					N.M. Stat. Ann. § 32-1-38.1 (Supp. 1982) Human Services Department must petition the court, within six months after original disposition and within six months of any continuation of the order, for court review. At review, court may: order return home; transfer of custody; allow child to stay in department custody without parental involvement; or at 18 months, or longer, order termination of parental rights.	N.M. Stat. Ann. § 32-1-38.1 (Supp. 1982) The court must terminate parental rights at the 18 month review hearing if the child has been in care at least 18 months and cannot be returned home, unless it is affirmatively shown that the possibility of adoption is remote because of the child's age or health.

Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
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New York N.Y. [Fam. Ct. Law] §§ 1055(b)(i); 1061; 1062 (McKinney 19__) N.Y. [Soc. Serv.] Law §§ 384-b; 392.2-11 (McKinney 19__ and Supp. 1982)			N.Y. [Fam. Ct. Law] § 1055(b)(i) (McKinney 19__) Person or place with custody of child must submit report at end of initial 18 month placement and at end of extensions.	N.Y. [Soc. Serv.] Law § 384-b (McKinney 19__) Where foster parents who have been authorized to initiate termination of parental rights proceedings fail to institute adoption proceedings within six months, court may, on own motion or motion of a party, modify or revoke its order. N.Y. [Fam. Ct. Law] § 1061 (McKinney 19__) Court may, on own motion or motion of party, for good cause shown, modify or vacate an order.	N.Y. [Fam. Ct. Law] § 1055(b)(i) (McKinney 19__) Upon expiration of initial 18 month placement order and successive order, court must hold a hearing and may make successive extensions for additional yearly periods.	N.Y. [Soc. Serv.] Law § 392.11 (McKinney Supp. 1982) When child has been in foster care 18 months a petition for review shall be filed by responsible agency (and may be by another agency or foster parent). Court must hold hearing and enter an order directing: that foster care be continued; that the child be returned to parent, guardian or relative; or that the agency file a petition for termination of parental rights or

Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
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New York (con't)				N.Y. [Fam. Ct. Law] § 1062 (McKinney 19__) Any interested person may petition court for an order terminating placement. When a child is continued in foster care, the court may rehear, at any time, or on motion of a party but must rehear the matter at least every 24 months.		directing a child's placement for adoption with a specific family.
North Carolina N.C. Gen. Stat. §§ 7A-657; 664 (1981)				N.C. Gen. Stat. § 7A-657 (1981) On motion, court may conduct a review hearing and may vacate or modify the order based on changed circumstances or the needs of the juvenile.	N.C. Gen. Stat. § 7A-664 (1981) Six month review by court after initial placement, annually thereafter.	

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Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
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North Dakota N.D. Cent. Code § 27-20-36.3 (Interim Supp. 1981) N.D. Cent. Code § 27-20-27 (Supp. 1981)				N.D. Cent. Code § 27-20-37 (Supp. 1981) Any party to the proceeding, the juvenile supervisor or other person having supervision or legal custody of or an interest in the child may petition the court for vacation or modification of the dispositional order.	N.D. Cent. Code § 27-20-36.3 (Interim Supp. 1981) Upon own motion or motion of party, court may after a hearing, extend dispositional order which, otherwise, may not last more than 18 months. The hearing must be held prior to the expiration of the existing order.	

Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
Ohio Ohio Rev. Code Ann. §§ 215.412; 5103.151(A), (B), (C) (Page 1981 & Page Supp. 1981)	Ohio Rev. Code Ann. § 5103.151 (A), (B) (Page 1981) Agency must conduct annual review of every child in care (decision maker is not specified). The initial review is to be held sixty days after the child's placement and then annually thereafter, unless the court orders them held more frequently. County review procedures must be approved by court or board.	Ohio Rev. Code Ann. § 5103.151(C) (Page 1981) County review board may be appointed by the court and may review agency reports in lieu of court.	Ohio Rev. Code Ann. § 2151.412 (Page Supp. 1981) Agency required to submit to court an initial plan and a reunification plan. Ohio Rev. Code Ann. § 5103.151 (Page 1981) The annual review report must be filed with the court and must cover parents' efforts and contact, agency efforts, agency plans and services. Court or review board must review and evaluate all reports annually filed by the agency and within 90 days either approve report or order it revised.		Ohio Rev. Code Ann. § 5103.151(C) (Page 1981) Court must hold a hearing after filing of second annual agency review to inquire into future plans for the child's placement or return home.	

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Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
Oklahoma Okla Stat. tit. 10, §§ 1115.1.A, 1116.A,.B, 1116.1.A, 1116.3.A, 1118 (Supp. 1982-1983)		Okla. Stat., tit. 10, § 1116.3.A (Supp. 1982-83) Review board to be established in each judicial district appointed by judge. Board reviews case once each six months and submits reports to court.	Okla. Stat., tit. 10, § 1115.1.A. (Supp. 1982-83) Dept. must file placement plan with court within 30 days of placement. Okla. Stat. tit. 10, § 1116.A (Supp. 1982-83) Agency must submit report to court prior to six month reviews. Okla. Stat., tit. 10, § 1116.3. Review board must submit report to court following six month review.	Okla. Stat., tit. 10, § 1118 (Supp. 1982-83) Court may modify order or decree at any time.	Okla. Stat., tit. 10, §§ 1116.B; 1116.1.A (Supp. 1982-83) Dispositional order removing child from home to be reviewed once every six months by a court hearing.	Okla. Stat., tit. 10, § 1116.B (Supp. 1982-83) No later than 18 months after placing a child in foster care and every 12 months thereafter court shall conduct a dispositional hearing to decide whether to return child home; continue child in foster care for specified period; terminate parental rights; or continue child in foster care on long-term basis with permanent plan of independent living because of exceptional circumstances.

Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
Oregon Or. Rev. Stat. § 418.302; 419.529 (1981)	Or. Rev. Stat. § 418.302 (1981) After 18 months of voluntary placement, agency must conduct administrative review of case.			Or. Rev. Stat. § 419.529 (1981) Court may modify or set aside any order made by it upon such notice and with such hearing as court may direct.		
Pennsylvania Pa. Stat. Ann. tit. 11, § 2223(b) (Purdon Supp. 1982-1983)				Pa. Stat. Ann. tit. 11, § 2223(b) (Purdon Supp. 1982-1983) Court, upon petition of child's attorney, shall order agency to establish or implement services, treatment or plans for a child found in need of them. Court also shall,		

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Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
Pennsylvania (con't)				on petition, consider altering the conditions or terminating the child's placement.		
Rhode Island R.I. Gen. Laws §§ 14-1-34; 42-72-10 (1979 and Supp. 1982)	R.I. Gen. Laws § 42-72-10 (1979) Service plan to be reviewed every six months to determine whether it is in child's best interests and is cost effective. (No specification of decision maker or procedure.)			R.I. Gen. Laws § 14-1-34 (Supp. 1982) Court may, at any time, for good cause shown, revoke or modify its decree.		

Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
South Carolina S.C. Code Ann. §§ 20-7-1630 - 1640 (Law Co-op. Supp. 1982)		S.C. Code Ann. § 20-7-1640 (Law Co-op. Supp. 1982) Local Foster Care Review Board to review every six months cases of children who have been in foster care more than six months to determine agency's efforts to acquire permanent home for the child to encourage return home or termination and adoption, etc.		S.C. Code Ann. § 20-7-1640 (Law Co-op. Supp. 1982) Any person or agency aggrieved by a decision of a local review board may petition family court for a rule to show cause why the board's order should not be set aside or modified.		

Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
South Dakota S.D. Codified Laws Ann. §§ 26-8-351, 26-8-62, 26-8-63 (Supp. 1982)	S.D. Codified Laws Ann. § 26-8-35(1) (Supp. 1982) Where court has placed legal custody in department without an approved plan for long term foster care; the department shall conduct an administrative review every six months of the services provided to the child and child's family and report its findings to the court.		S.D. Codified Laws Ann. § 26-8-35.1 (Supp. 1981) The department shall report the results of its six month reviews to the court.	S.D. Codified Laws Ann. § 26-8-35(1) (Supp. 1982) If department finds further court action is needed to terminate parental rights or clarify child's legal status, state's attorney shall petition court under § 26-8-62 or 63. S.D. Codified Laws Ann. § 26-8-62 (Supp. 1982) Where legal custody has been vested by the court in an agency ... the legal custodian [the agency] may petition the court for modification or termination of the decree on the ground that a change of circumstances has occurred		

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Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
South Dakota (con't)				which requires such modification or termination in the best interest of the child or public. S.D. Codified Laws Ann. § 26-8-63 (Supp. 1982) [A] ... guardian or custodian ... of any child adjudicated under this chapter may petition the court for a new hearing on the ground that new evidence has been discovered previously unknown and which could not with due diligence have been made available at the original hearing and which might affect the original decree.		

Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
South Dakota (con't)				If court determines there is such new evidence which might affect the original decree, it shall order a new hearing and shall make disposition as warranted by all facts and circumstances and the best interests of the child.		
Tennessee Tenn. Code Ann. §§ 37-1502(a)(1), (3), (6); 37-1505(b), (c)(1), (2) (Supp. 1982)		Tenn. Code Ann. § 37-1505(b) (Supp. 1982) Local Review Board appointed by judge reviews initial agency plan. Where court has already reviewed plan, local board shall review plan within six months afterward, and board will review the plan	Tenn. Code Ann. § 37-1502(a)(1) (Supp. 1982) Agency required to prepare case plan for each case and submit same to court. Tenn. Code Ann. § 37-1505(c)(1), (2) (Supp. 1982) Board must submit	Tenn. Code Ann. § 37-1502(a)(3), (6) (Supp. 1982) When agency and parents are unable to agree on a statement of responsibilities in the case plan, the agency may petition court for a hearing. The court, after taking evidence may approve a binding statement	Tenn. Code Ann. § 37-1502(a)(6) (Supp. 1982) Case plan and compliance to be reviewed by court six months after initial placement. Court may review plan thereafter in addition to Board. (Cases of children voluntarily surrendered to agency	

Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
Tennesse (con't)		annually thereafter and report of agency on such case.	report to judge on each case within 30 days of Board review with findings and recommendations regarding agency's efforts to carry out foster care plan. (Report goes to agency if parental rights have been surrendered or terminated).	of parental responsibilities.	heard only by Board).	
Texas Tex. [Fam.] Code Ann. §§ 14.08; 18.01 (Vernon 1975 & Supp. 1982)				Tex. [Fam.] Code Ann. § 14.08 (Vernon 1975) Any interested party may move for modification of an order, alleging a material change of circumstances.	Tex. [Fam.] Code Ann. § 18.01 (Vernon 1982) Court must hold hearing to review foster care placement and conservatorship appointment every 5-1/2 - 7 months after last hearing in the case (covers voluntary placement as well).	

Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
Utah Utah Code Ann. §§ 78-3a-42, 45 (1977)				Utah Code Ann. § 78-3a-45 (1977) Court may modify or set aside any order or decree made by it.	Utah Code Ann. § 78-3a-42 (1977) Order vesting custody in institution or agency expires at end of two years. However, custodian may file petition for review of the case and court may continue order.	
Vermont Vt. Stat. Ann., tit. 33, §§ 658, 659 (Supp. 1982)				Vt. Stat. Ann., tit. 33, § 659 (Supp. 1982) Court may, on petition of a party, modify or set aside an order on grounds of fraud, mistake, lack of jurisdiction or changed circumstances.		Vt. Stat. Ann., tit. 33, § 658 (Supp. 1982) Order transferring custody shall be reviewed 1-1/2 years from date entered and each 1-1/2 years thereafter by court or administrative body

Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
Vermont (con't)						appointed or approved by court. Review shall determine whether child shall be returned home; continued in foster care for a specified period; remain in long term foster care with a plan of independent living because of exceptional circumstances or be considered for adoption or legal guardianship. When an administrative body makes the decision it is binding unless a party, after notice, seeks a review by the court. Court may conduct review *de novo* of the determination on its own motion or motion of a party.

Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
Virginia Va. Code §§ 16-1-281.A, .B,.E,-1282 (1982)	Va. Code. § 63.1-56.2 (Supp. 1982) Each local board shall review the cases of children in custody on a planned basis to evaluate the status and effectiveness of the service plan and services provided, under rules issued by the State Board.		Va. Code § 16-1-281.A (1982) Agency must prepare foster care plan for child committed to its care and submit copy to court for distribution.	Va. Code § 16-1-281.E (1982) Court may upon own motion review status of children in foster care. Va. Code § 16-1-281.C (1982) Upon petition of anyone receiving a copy of foster care plan, court may review the plan and hold hearing on whether to change the plan.	Va. Code § 16-1-282 (1982) Custodial agency must file a petition for a hearing with the court within sixteen months of initial foster care placement. The court shall set hearing within 60 days.	

Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
Washington Wash. Rev. Code Ann. §§ 13.34.130(3), 13.34.150, 13.34.210 (Supp. 1982)				Wash. Rev. Code Ann. § 13.34.150 (Supp. 1982) Any order made by court may be changed, modified or set aside where court deems proper.	Wash. Rev. Code. Ann. § 13.34.130(3) (Supp. 1982) Court must review status of all dependent children every six months to determine whether court supervision should continue. The child must be returned home unless the court finds that a reason for removal still exists. The court must make findings with respect to services, visitation, parental cooperation and expected date of return. The court may order, at the review, that a petition for termination of parental rights be filed.	

Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
Washington (con't)					Wash. Rev. Code Ann. § 13.34.210 (Supp. 1982) Where parental rights have been terminated and adoption has not taken place six months hence, court must review case at that time and every six months hence.	
West Virginia W. Va. Code §§ 49-6-6, 49-6-8 (1980)				W. Va. Code § 49-6-6 (1980) On motion of a child, child's parent or custodian or the department, the court may modify a dispositional order on a showing of changed circumstances.	W. Va. Code § 49-6-8 (1980) After 20 months of custody, agency shall petition court for hearing re disposition.	

Case Review Requirements of State Statutes

State/ Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
Wisconsin Wisc. Stat. Ann. §§ 48.355(4), 48. 365, 48.357(2m), 48.363 (Supp. 1982)				Wisc. Stat. Ann. § 48.357(2m) (Supp. 1982) Upon petition of interested party, court shall hold hearing to consider request for change in placement. Wisc. Stat. Ann. § 48.363 (Supp. 1982) Upon petition of interested party, court shall hold hearing to consider request for revision of dispositional order.	Wisc. Stat. Ann. § 48.355(4) (Supp. 1982) Placement order terminates at end of year, unless court specifies shorter time. Extension or revision terminates at end of one year, unless court specifies shorter period of time. Wisc. Stat. Ann. § 48.365 (Supp. 1982) Upon petition of interested party, court shall hold a hearing to consider request for extension of order.	

Case Review Requirements of State Statutes

State Statutory Reference	Administrative Review Within Child Welfare Agency	Administrative Review By Group Outside the Agency	Judicial Review			Permanency Planning Hearing (By court or court-appointed or approved body)
			Written Report to Court	Hearing Available on Motion of Party	Periodic Review or Foster Care Extension Hearing	
Wyoming No statutory provisions						

APPENDIX C

COMPARATIVE STUDY OF STATE CASE REVIEW SYSTEMS
PHASE II
DISPOSITIONAL HEARINGS

OMB #0980-0149
Expires September 1984

Comparative Study of State Case Review Systems

Phase II

Dispositional Hearings

National Telephone Survey

Agency Questionnaire

Introduction to the Questionnaire

To facilitate your answering the questions, before we ask you to complete the questions we'd like to give a brief introduction to the study.

Our study is concerned with the impact and implementation of the 1980 Federal law, Adoption Assistance and Child Welfare Act (P.L. 96-272). We are primarily interested in one part of the law which states that children under the supervision of the state child welfare agency must have a hearing by a court or court-appointed body within 18 months of the child's original placement in foster care. The purpose of the hearing is to decide the permanent future home of the child.

We know that many states require the courts to periodically review, typically every year or every six months, the status of each child in foster care. What we are generally interested in for this interview are any court hearings other than the initial custody hearing which directly address the need for permanent plans for foster children. These may be called periodic foster care review hearings, hearings to extend commitment, or permanency planning hearings, or they may be called by some other name. As you may know, the Federal law calls the hearings at which a decision must be made on the permanent future status of the child."dispositional hearings." The term does not mean the same thing as the usual juvenile court "disposition hearing" which is held at or shortly after the time a child is found to be abused, neglected or dependent, in order to decide upon the child's custody.

Your participation in this study is voluntary.

1. First, we are interested in getting an overall view of the hearings that may be conducted in your state to review foster care cases.

   1A. Which of the following hearings are held by the court or a court-appointed body in your state? [ASK ITEMS a TO d: THEN ASK 1B AND 1C FOR EACH YES RESPONSE]

   1B. Within what time intervals must this hearing be held? [PROBE TO GET "AT LEAST" IN WHAT TIME FRAME]

   1C. Are these hearings mandated by state law?

Type of hearing	1A.* Held or not	1B. At least by what date	1C. Mandated	
A. A hearing at the time or shortly after a court finds the child is dependent/or abused to decide where to place the child.	1 2 3	Within ______ days Comments: ______________________ ______________________ ______________________	1 2	/16 /17-19 /20
B. Subsequent periodic judicial review hearings	1 2 3	At least every ______ months Comments: ______________________ ______________________ ______________________	1 2	/21 /22-24 /25
C. A special hearing other than the periodic review focused on the permanency plan for the child.	1 2 3	At what point is this held? By ______ months Comments: ______________________ ______________________ ______________________	1 2	/26 /27-29 /30
D. Are there any other [SPECIFY NAME] ______________________ ______________________ ______________________	1 2 3	At least every ______ months Comments: ______________________ ______________________ ______________________	1 2	/31 /32 /33-35 /36

* 2 indicates not always held.

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1E. Other than the court report submitted for a scheduled hearing, is the agency or review board mandated by law to submit a report on each child in foster care on a periodic basis for the court to review?

Yes	1 (Q.1F)	
No.	2 (Q.2)	
Varies by county.	3	/37
DK.	8	

1F. Are hearings ever held as a result of this review? (CIRCLE ONE)

Yes	1	/38
No.	2	
Varies by county.	3	
DK.	8	

IF RESPONDENT ANSWERS "NOT HELD"(2) FOR ALL HEARINGS (1A,B,C, AND D) AND "NO" TO (1F), SKIP TO QUESTION 21.

IMPORTANT

INTERVIEWER NOTE: AT THIS POINT IT IS VERY IMPORTANT TO REVIEW THE FOLLOWING WITH RESPONDENT: READ OR EXPLAIN

The Federal law P.L. 96-272 specifies that in order to be eligible for certain funds, state child welfare agencies must see that all children in foster care under supervision of the agency have a hearing (other than the initial custody hearing) conducted by the court or a court-appointed body by the time they have been in care 18 months. This hearing is to specially address the question of deciding on a permanent placement plan for the child.

Unless otherwise specified we will be asking the remaining questions about the hearing in your county closest to the one defined by P.L. 96-272.

2A. What do you call the hearings that are most similar to the P.L. 96-272 dispositional hearing? [RECORD RESPONSE AND USE THIS TERM WHENEVER REFERRING TO DISPOSITIONAL HEARINGS FOR THE REST OF THE INTERVIEW]

____ /39-40

____

2B. How long has your state been holding (INSERT NAME OF HEARING)? [CIRCLE ONE]

6 months.	1	/41
1 year.	2	
2 years	3	
3 years	4	
Over 3 years.	5	
Over 6 years.	6	
Don't know.	8	

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3A. We want to see if your [INSERT NAME OF HEARING] generally follows the components of P.L. 96-272 and any changes that may have been brought about by the law. [READ EACH ITEM]

[FOR EACH NEGATIVE RESPONSE RECORDED UNDER COLUMN (1), ASK:]
Do you have plans to do this? [RECORD IN COLUMN (2)]

[FOR EACH POSITIVE RESPONSE RECORDED UNDER COLUMN (1), ASK:]
Was this component instituted prior to 1980? [RECORD IN COLUMN (3)]

[FOR EACH NEGATIVE RESPONSE RECORDED UNDER COLUMN (3), ASK:]
Was this implemented in response to P.L. 96-272? [RECORD IN COLUMN (4)]

	(1) In place			(2) Plans to do			(3) Prior to 1980			(4) Implemented in response to the law			
	Yes	No	DK	Yes	No	DK	Yes	No	DK	Yes	No	DK	
a. Is the hearing held by a court or a body appointed or approved by a court? . . .	1	2	8	1	2	8	1	2	8	1	2	3	/42-4
b. Does the hearing take place within 18 months of the child's original placement? .	1	2	8	1	2	8	1	2	8	1	2	3	/46-49
c. Are hearings held for all children who have been in foster care eighteen months or longer under the supervision of the state agency? .	1	2	8	1	2	8	1	2	8	1	2	3	/50-5
d. Are hearings held periodically thereafter as long as the child remains in foster care?.	1	2	8	1	2	8	1	2	8	1	2	3	/54-57
e. Does the hearing result in a decision on what should be the permanent plan for the child (i.e., return home, termination, guardianship, permanent foster care?)	1	2	8	1	2	8	1	2	8	1	2	3	/58-6
f. Do hearing proceedings include procedural safeguards to protect the rights of interested parties?	1	2	8	1	2	8	1	2	8	1	2	3	/62-65

3B. In order to meet the dispositional hearing components of P.L. 96-272 has your state: [CIRCLE ONLY ONE]

- Used existing procedures without a change in legislation. 01
- Modified existing procedure without change in legislation 02
- Passed legislation to create a new hearing procedure. 03
- Created a new hearing procedure without new legislation 04
- Passed legislation to mandate existing procedures 05
- Not tried to meet the components. . . . . 06 (SKIP TO Q.3G) /66-67
- Other [SPECIFY] ____________________ 07

____

____

- DK. 08

3C. P.L. 96-272 requires that all children have a dispositional hearing within 18 months of this "original placement" and "periodically thereafter." How does your state define "original placement?" [CIRCLE ONE]

Date child is placed in foster care 01

Date of initial hearing 02

Date child is adjudicated abused,
neglected or dependent. 03

Date voluntary agreement is signed. . . . . . . 04 /68-69

Other [SPECIFY] ____________________ 05

____

DK. 08

3D. How does your state define "periodically thereafter" for subsequent dispositional hearings? [CIRCLE ONE]

Every 6 months after dispositional hearing. 01

Every 12 months after dispositional hearing 02

Every 18 months after dispositional hearing 03

Every 24 months after dispositional hearing . . . . 04 /70-71

Other [SPECIFY] ____________________ 05

DK. 08

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3E. Do dispositional hearings differ from the six month periodic reviews outlined in P.L. 96-272? [CIRCLE ONE]

Yes. 1 (Q.3F)
No . . . . 2 (Q.3G) /72
DK 8 (Q.3G)

Respondent's comments: [PROBE FOR TYPE OF REVIEW HELD) ____________________

____

____

____

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3F. How do dispositional hearings differ from periodic reviews in each of the following areas? [RECORD RESPONSE AND CIRCLE YES OR NO]

	Yes	No	
1. Is a different form required?.	1	2	/16
2. Is the purpose different? [PROBE FOR HOW] ____________________	1	2	/17
3. Is the person conducting the hearing different? [PROBE FOR WHO CONDUCTS] ____	1	2	/18
4. Is there increased participation of parents or other related parties?.	1	2	/19
5. Are the decisions considered more binding?	1	2	/20
6. Are more due process safeguards applied?	1	2	/21
7. Are there any other major differences? [SPECIFY] ____________________	1	2	/22
____________________			/23
____________________			/24
____________________			/25

3G. Which of the following types of non-judicial review are conducted by your state agency? [CIRCLE ONE FOR EACH ITEM]

	As needed	Planned basis	Not held	DK	
1. Caseworker/supervisory	1	2	3	8	/26
2. Agency administrative	1	2	3	8	/27
3. Interdisciplinary panel	1	2	3	8	/28
4. Citizen review board	1	2	3	8	/29
5. Other [SPECIFY] ________	1	2	3	8	/30

3H. A. Does your state provide procedural safeguards to protect parents' interests in the following circumstances? [CIRCLE YES OR NO FOR EACH ITEM]

B. Are these mandated in your policy?

	A. Yes	A. No	B. Yes	B. No	
1. When agency decides to remove child from parent's home. . . .	1	2	1	2	/31-32
2. When the placement of a child under agency supervision is going to be changed.	1	2	1	2	/33-34
3. When the visitation rights of the parents are going to be changed.	1	2	1	2	/35-36

3I. Of the following, which categories of cases are included in dispositional hearings proceedings? [ASK FOR CURRENT AND PRIOR TO 1980: CIRCLE YES OR NO FOR EACH ITEM]

	A. Present			B. Prior to 1980			
	Yes	No	DK	Yes	No	DK	
1. Voluntary care placement cases	1	2	8	1	2	8	/37-38
2. Cases in which proceedings to terminate parental rights are underway	1	2	8	1	2	8	/39-40
3. Cases in which parental rights have already been terminated.	1	2	8	1	2	8	/41-42
3. Permanent/long term foster care cases.	1	2	8	1	2	8	/43-44
4. Cases of children placed with relatives.	1	2	8	1	2	8	/45-46

3J. Are there any children for whom only a review of the agency report or other documentation is conducted by the court instead of a hearing? [IF YES, PROBE FOR WHICH ONES]

Yes	1 (Q.3JA)	
No.	2 (Q.3K)	/47
DK.	8 (Q.3K)	

3JA. Which types of cases does this include?

(RECORD RESPONSE) ______________________________

____

____

____

______________________________ /48-49

____

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3K. About what percent of the children in foster care have this type of review rather than a hearing?

[ENTER PERCENT] ____________________% /50-52

5. Who among the following conducts the hearings in your state?

COLUMN (A): READ EACH ITEM AND CIRCLE ALL THAT APPLY. +/53-56

COLUMN (B): IF THERE IS MORE THAN ONE RESPONSE IN COLUMN (A) ASK:
Is one of these responsible more frequently than others?

IF YES, ASK: Which one? [CIRCLE ONE]

IF NO, CIRCLE NONE

	5A. CIRCLE ALL THAT APPLY MENTIONED	NOT MENTIONED	5B. CIRCLE ONE	
1. Judge	1	2	01	/57
2. Master	1	2	02	/58
3. Court referee/commissioner/ magistrate	1	2	03	/59
4. Citizen volunteer	1	2	04	/60
5. Court appointed body	1	2	05	/61
6. Other (SPECIFY) ____________ ____________	1	2	06	/62
7. None (no one is used more frequently)	____________		07	
8. DK	____________		98	/63-64

REMEMBER: IF RESPONDENT MENTIONED ITEM "5" IN Q.5A, ASK Q.15-20 AT END OF INTERVIEW.

5C. Does your state have a citizens' foster care review board?

Yes 1 (Q.5D)
No. . . . . 2 (Q.6) /65
DK. 8 (Q.6)

5D. We are interested in the relationship between the citizen foster care review board, the court and the agency. Which of the following best describe this relationship in your state. [CIRCLE ONE]

a. Review Board decisions are recommendations to the agency only. . . . . 01 /66-67

b. Review Board decisions are recommendations to the court only and not binding on the agency unless ratified by the court 02

c. Review Board decisions are binding on the agency without court action. 03

d. Review Board decisions are binding on the agency unless the agency disagrees formally, in which case parties may seek court resolution of the disagreements 04

e. Other (RECORD RESPONSE) ______________________________ 05

____

____

____

INTERVIEWER'S NOTE: IF RESPONDENT ANSWERS MORE THAN ONE RESPONSE TO Q.5A. ASK THE RESPONDENT TO ANSWER THE REMAINING APPLICABLE QUESTIONS FOR THE HEARINGS CONDUCTED BY THE POSITION CHOSEN IN Q.5B.

+68

6A. Who among the following are notified of their right to attend the hearing? [READ

[CARD C

6B. Is this mandated throughout the state?

	A. Is notified		B. Mandated throughout the state		
	Yes	No	Yes	No	
1. Natural parent.	1	2	1	2	/16-17
2. Child	1	2	1	2	/18-19
3. Agency.	1	2	1	2	/20-21
4. Parents attorney.	1	2	1	2	/22-23
5. Child's attorney or guardian ad litem.	1	2	1	2	/24-25
6. Agency attorney	1	2	1	2	/26-27
7. Any other [SPECIFY] . . . . ____________________ ____________________	1	2	1	2	/28-30

6C. Who is responsible for notification?

Agency.	1	
Court	2	
Both.	3	/31
Don't know.	8	

7A. Which of the following procedures are followed with regard to the [INSERT NAME OF HEARING]. [READ EACH PROCEDURE AND THEN ASK 7B]

7B. Is this mandated by state law or court rules?

Procedure	7A. Practice Yes	7A. Practice No	7B. Mandated Yes	7B. Mandated No	
1. Those notified are provided with written notice.	1 Any exception? ____________ ____________	2	1	2	/32-33
2. Those notified are provided with a case report prior to the hearing. . . .	1 Any exception? ____________ ____________	2	1	2	/34-35
3. The notice includes a statement of the possible results of the hearing	1 Any exception? ____________ ____________	2	1	2	/36-37
4. Those notified are required to attend .	1 Any exception? ____________ ____________	2	1	2	/38-39
5. Those notified are appointed counsel if they are not already represented . .	1 Any exception? ____________ ____________	2	1	2	/40-41
6. Those present are given the opportunity to present and question witnesses	1 Any exception? ____________ ____________	2	1	2	/42-43
7. Those notified have the right to appeal.	1 Any exception? ____________ ____________	2	1	2	/44-45
8. A record is made of the proceedings . .	1 Any exception? ____________ ____________	2	1	2	/46-47
9. There is a written finding or order as a result of the hearing.	1 Any exception? ____________ ____________	2	1	2	/48-49
10. Are there any other due process safeguards applied [SPECIFY] ____________	1 Any exception? ____________ ____________	2	1	2	/50-51 /52-53

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8A. In general, are foster parents also provided all the due process rights listed in the preceding question?

Yes, all.	1	(Q.9)	/54
Yes, some	2	(Q.8B)	
No.	3	(Q.8B)	
DK.	8		

8B. Which ones are not provided to them? +/55-67

____

____

____

10. The next questions relate to written policies or laws you may have concerning the hearings. [CIRCLE YES OR NO FOR EACH ITEM]

	Yes	No	DK	
10A. Are there special court rules or written policies for conducting these hearings?	1	2	8	/68
10B. Are there state statues which specify procedures for conducting these hearings?.	1	2	8	/69
10C. Have there been any new state laws passed with respect to the hearings since January 1, 1980?.	1	2	8	/70
10D. Are there any plans to revise the statutes to include provisions for these hearings?.	1	2	8	/71

+/72

ASK RESPONDENT TO SEND COPIES OF WRITTEN POLICIES ON HEARING TO WESTAT.

|CARD 05|

11. Do you believe that the person conducting the [INSERT NAME OF HEARING] has the authority in the context of the hearing to order the agency to: [CIRCLE YES OR NO FOR EACH ITEM]

	Yes	No	
a. Return the child to their parent	1	2	/16
b. Provide services to the family with a plan of returning the child home at a specified time	1	2	/17
c. Continue child in foster care for a specified time period.	1	2	/18
d. Initiate a termination of parental rights proceeding	1	2	/19
e. Take steps to place the child for adoption within a certain time frame	1	2	/20
f. Continue the child in foster care on a permanent or long term basis. .	1	2	/21
g. Place the child with specific foster parents, relatives, or any specific group home or residential placement	1	2	/22
h. File for guardianship or custody for the child	1	2	/23

12. Now we are interested in getting your assessment of the impact or potential impact of holding judicial or court appointed body foster care review hearings. In your view have any of the following been or would they be increased, decreased or not affected by holding the hearings. [READ EACH ITEM AND RECORD RESPONSE]

	Have been			Would be				
	In-creased	De-creased	Not affected	In-creased	De-creased	Not affected	DK	
a. Percent of terminations of parental rights	1	2	3	4	5	6	8	/24
b. Length of time before agency recommends termination of parental rights	1	2	3	4	5	6	8	/25
c. Number of placements per child.	1	2	3	4	5	6	8	/26
d. Parental participation in the case review process	1	2	3	4	5	6	8	/27
e. Percent of children returned home.	1	2	3	4	5	6	8	/28
f. Protection of child rights. . .	1	2	3	4	5	6	8	/29
g. Protection of parental rights .	1	2	3	4	5	6	8	/30
h. Time involved for review of each case	1	2	3	4	5	6	8	/31
i. Percent of cases which agency recommends long term or permanent foster care for children.	1	[illegible]	[illegible]	[illegible]	5	6	8	/32
j. Average length of substitute care.	1	2	3	4	5	6	8	/33

13H. If they disagree, ask why? ____

____ /41-42

____ /42-44

____ /45-46

13I. Apart from Federal law, would you say that there is support in your agency for conducting regularly scheduled dispositional hearings? [PLEASE CIRCLE ONLY ONE RESPONSE]

Yes, strong.	1	/47
Yes, moderate.	2	
Neutral.	3	
Not much	4	
Not at all	5	

13J. Are there or have there been any laws or court review policies or procedures that make it difficult to meet the P.L. 96-272 dispositional hearing requirements?

Yes.	1 (Q.13K)	/48
No	2 (Q.14A)	

13K. If yes, what are they? ____ /49-50

____

____

14A. What do you see as being the major benefits of requiring dispositional hearings for children in foster care? [RECORD RESPONSE] [PROBE FOR RESPONSES FOR BENEFITS TO FAMILIES AND ALSO TO AGENCY AND COURTS]

____ /51-52

____

____ /53-54

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____ /55-56

____

14B. What are the major problems involved in implementing the hearings as required by P.L. 96-272? [RECORD RESPONSE] [PROBE FOR RESPONSES FOR PROBLEMS TO FAMILIES AND ALSO THE AGENCY AND COURTS]

/57-58

/59-60

/61-62

14C. One of the purposes of this study is to obtain feedback from states on the dispositional hearing components specified in P.L. 96-272. We'd like to know any recommendations you might have for:

1. Changes to improve this legislation.

2. What would be of assistance to states in its implementation?

1. ______

/63-64

/65-66

2. ______

/67-68

/69-70

NOTE: IF RESPONDENT ANSWERED IN Q.5A THAT COURT APPOINTED BODIES CONDUCT HEARINGS GO TO Q.15. IF NOT, GO TO Q.24. SKIP Q.15 TO Q.23.

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|CARD 06|
+/16-80

> NOTE: ASK THE FOLLOWING QUESTIONS ONLY TO THOSE PEOPLE WHO HAVE INDICATED IN Q.5A THAT COURT APPOINTED OR APPROVED BODIES CONDUCT DISPOSITIONAL HEARINGS]

As you have indicated that court appointed/approved bodies conduct dispositional hearings, we have a few questions about how these bodies operate in your state.

|CARD 07|

15. Are the administrative bodies conducting dispositional hearings as defined by P.L. 96-272: [CIRCLE ONE]

a. Court appointed	1	/16
b. Court approved	2 (SKIP TO Q.17)	
c. Other (SPECIFY)______________	3	
d. DK	8	

16. Who appoints the members of the court appointed administrative body? [CIRCLE ONE]

Local judges	01	
State supreme court	02	
Both	03	/17-18
Other (SPECIFY)______________	08	

[SKIP TO QUESTION 18]

17. Who nominates or appoints the members of the court approved administrative body? [CIRCLE ONE]

State child welfare agency	01	
Governor	02	
State legislature	03	/19-20
All of above	04	
Other (SPECIFY)______________	05	

[illegible]

18A. Generally, what is the composition of the administration body? [CIRCLE ONLY ONE]

Citizens only 01
Paid professional consultants only. . 02
Child welfare agency staff only . . . 03
Citizens and agency staff . . . . . . 04 /21-22
Citizens, professionals and staff . . 05
Professionals and staff 06
Other (SPECIFY)____________________ 07

18B. Are there any special requirements for Board composition (i.e., representation by specific professions)?

Yes 1 (Q.18C)
No. . . . . 2 (Q.19) /23
DK. 8

18C. If yes, what are the requirements? ____
____

19. Do the decisions made by the administrative bodies have to be ratified by the court in order for them to be carried out? [CIRCLE ONE]

Yes, always 1
Depend on type of decision or whether contested . 2 (GO TO Q.19A) /24
No. 3
DK. 8

(PROBE FOR)
19A. Under what circumstances must the decision be ratified by the court and what is the procedure for handling these cases? ____
____
____
____

20. Do the administrative bodies have written rules for their proceedings which require the following? [CIRCLE YES OR NO FOR EACH ITEM]

	Yes	No	DK	
a. Taking of sworn testimony	1	2	8	/25
b. Keeping of verbatim records by tape recorder or transcriber. . . .	1	2	8	/26
c. Decisions based only on information presented at the hearing . . .	1	2	8	/27
d. Written decisions on the future status of the child with statement of findings	1	2	8	/28
e. Notification of parties involved. .	1	2	8	/29

SKIP TO Q.24

ASK QUESTIONS 21-23 ONLY OF RESPONDENTS WHO ANSWERED NO TO ALL PARTS OF Q.1.

21. Which types of the following review does your state conduct for children in foster care? (RECORD RESPONSE) (PROBE FOR "AS NEEDED" OR "PLANNED")

	As needed	Planned	Not held	DK	
a. Caseworker/supervisory	1	2	3	8	/30
b. Agency administrator	1	2	3	8	/31
c. Interdisciplinary panel	1	2	3	8	/32
d. Citizen review board	1	2	3	8	/33
e. Other (SPECIFY) ________	1	2	3	8	/34

Record comments: ______________________________ /35

22. We like to know any plans your state might have to initiate judicial hearings on a periodic basis?

	Yes	No	DK	
a. Do you plan to initiate hearings in your county?. . .	1	2	8	/36
b. Are there any plans to modify state law to mandate these hearings?	1	2	8	/37
c. Are these plans in response to P.L. 96-272?	1	2	8	/38
d. Do they include the provision that hearings be held for all children in foster care 18 months or longer?.	1	2	8	/39

23. RECORD ANY COMMENTS ABOUT PLANS:

____

____

____

____

____

For statistical purposes we would like to ask a few additional questions about your experience and background.

24. What is your current position with the agency?

____ /40-41

25. How long have you:

a. Been a [INSERT POSITION]? __________ NUMBER OF YEARS /42-43

b. With the agency __________ NUMBER OF YEARS /44-45

c. Been involved with foster care cases? __________ NUMBER OF YEARS /46-47

26. Finally, we would like to get the approximate number of children in substitute care as of February 1, 1983. [RECORD RESPONSE]

__________ NUMBER OF CHILDREN /48-52

CONCLUDE INTERVIEW.
THANK RESPONDENT.

INTERVIEWER NOTE: IF R IS UNABLE TO PROVIDE DATA FOR FEBRUARY 1, 1983, ASK FOR WHAT POINT IN TIME THEY CAN PROVIDE THE LATEST COUNT AND NOTE THE TIME PERIOD BELOW.

____

OMB #0980-0149
Expires September 1984

Comparative Study of State Case Review Systems

Phase II

Dispositional Hearings

National Telephone Survey

Court Questionnaire

1. First, we are interested in getting an overall view of the hearings that may be conducted in your county to review foster care cases.

   1A. Which of the following hearings are held by the court or a court-appointed body in your county? [ASK ITEMS a TO d: THEN ASK 1B AND 1C FOR EACH YES RESPONSE]

   1B. Within what time intervals must this hearing be held? [PROBE TO GET "AT LEAST" IN WHAT TIME FRAME]

   1C. Are these hearings mandated by state law?

Type of hearing	1A.* Held or not	1B. At least by what date	1C. Mandated	
A. A hearing at the time or shortly after a court finds the child is dependent/or abused to decide where to place the child.	1 2 3	Within ______ days Comments: ______________ ______________ ______________	1 2	/16 /17-19 /20
B. Subsequent periodic judicial review hearings	1 2 3	At least every ______ months Comments: ______________ ______________ ______________	1 2	/21 /22-24 /25
C. A special hearing other than the periodic review focused on the permanency plan for the child.	1 2 3	At what point is this held? By ______ months Comments: ______________ ______________ ______________	1 2	/26 /27-29 /30
D. Are there any other [SPECIFY NAME] ______________ ______________ ______________	1 2 3	At least every ______ months Comments: ______________ ______________ ______________	1 2	/31 /32 /33-35 /36

* 2 indicates not always held.

1E. Other than the court report submitted for a scheduled hearing, is the agency or review board mandated by law to submit a report on each child in foster care on a periodic basis for the court to review?

Yes	1 (Q.1F)	
No.	2 (Q.2)	/37
DK.	8	

1F. Are hearing ever held as a result of this report?

Yes	1	
No.	2	
Varies by county.	3	/38
DK.	8	

IF RESPONDENT ANSWERS "NOT HELD"(2) FOR ALL HEARINGS (1A,B,C, AND D) AND "NO" TO (1F), SKIP TO QUESTION 21.

IMPORTANT

INTERVIEWER NOTE: AT THIS POINT IT IS VERY IMPORTANT TO REVIEW THE FOLLOWING WITH RESPONDENT: READ OR EXPLAIN

The Federal law P.L. 96-272 specifies that in order to be eligible for certain funds, state child welfare agencies must see that all children in foster care under supervision of the agency have a hearing (other than the initial custody hearing) conducted by the court or a court-appointed body by the time they have been in care 18 months. This hearing is to specially address the question of deciding on a permanent placement plan for the child.

Unless otherwise specified we will be asking the remaining questions about the hearing in your county closest to the one defined by P.L. 96-272.

2A. What do you call the hearings that are most similar to the P.L. 96-272 dispositional hearing? [RECORD RESPONSE AND USE THIS TERM WHENEVER REFERRING TO DISPOSITIONAL HEARINGS FOR THE REST OF THE INTERVIEW]

____

____ /39-40

2B. How long has your county been holding (INSERT NAME OF HEARING)? [CIRCLE ONE]

6 months.	1	
1 year.	2	
2 years	3	
3 years	4	/41
Over 3 years.	5	
Over 6 years.	6	
Don't know.	8	

3A. We want to see if your [INSERT NAME OF HEARING] generally follows the components of P.L. 96-272 and any changes that may have been brought about by the law. [READ EACH ITEM]

[FOR EACH NEGATIVE RESPONSE RECORDED UNDER COLUMN (1), ASK:]
Do you have plans to do this? [RECORD IN COLUMN (2)]

[FOR EACH POSITIVE RESPONSE RECORDED UNDER COLUMN (1), ASK:]
Was this component instituted prior to 1980? [RECORD IN COLUMN (3)]

[FOR EACH NEGATIVE RESPONSE RECORDED UNDER COLUMN (3), ASK:]
Was this implemented in response to P.L. 96-272? [RECORD IN COLUMN (4)]

	(1) In place			(2) Plans to do			(3) Prior to 1980			(4) Implemented in response to the law			
	Yes	No	DK	Yes	No	DK	Yes	No	DK	Yes	No	DK	
a. Is the hearing held by a court or a body appointed or approved by a court? . . .	1	2	8	1	2	8	1	2	8	1	2	3	/42-45
b. Does the hearing take place within 18 months of the child's original placement? .	1	2	8	1	2	8	1	2	8	1	2	3	/46-49
c. Are hearings held for all children who have been in foster care eighteen months or longer under the supervision of the state agency? .	1	2	8	1	2	8	1	2	8	1	2	3	/50-53
d. Are hearings held periodically thereafter as long as the child remains in foster care?.	1	2	8	1	2	8	1	2	8	1	2	3	/54-57
e. Does the hearing result in a decision on what should be the permanent plan for the child? (i.e., return home, termination, guardianship, permanent foster care?)	1	2	8	1	2	8	1	2	8	1	2	3	/58-61
f. Do hearing proceedings include procedural safeguards to protect the rights of interested parties?	1	2	8	1	2	8	1	2	8	1	2	3	+/66-72

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4A. Within your county what is the name of the court system that usually conducts or has authority over [INSERT NAME OF HEARINGS]? [RECORD NAME]

____________________________________ /53-54

4B. Does this vary by county in your state?

Yes	1	
No.	2	/55
DK.	8	

4C. Is the county served by [INSERT NAME OF THE COURT] primarily urban, rural or suburban?

A primarily rural county.	1	
A primarily urban county.	2	
A mixed urban-suburban county	3	
Other [SPECIFY] ____________________	4	/56

____

____

5. Who among the following conducts these hearings in your county?

COLUMN (A): READ EACH ITEM AND CIRCLE ALL THAT APPLY.

COLUMN (B): IF THERE IS MORE THAN ONE RESPONSE IN COLUMN (A) ASK:

Is one of these responsible more frequently than others?

IF YES, ASK: Which one? [CIRCLE ONE]

IF NO, CIRCLE NONE

	5A. CIRCLE ALL THAT APPLY MENTIONED/NOT MENTIONED		5B. CIRCLE ONE	
1. Judge	1	2	01	/57
2. Master	1	2	02	/58
3. Court referee/commissioner/ magistrate	1	2	03	/59
4. Citizen volunteer	1	2	04	/60
5. Court appointed or approved body	1	2	05	/61
6. Other (SPECIFY) ______________ ______________	1	2	06	/62
7. None (no one is used more frequently)	____________		07	
8. DK	____________		98	/63-64

REMEMBER: IF RESPONDENT MENTIONED ITEM "5" IN Q.5A, ASK Q.15-20 AT END OF INTERVIEW.

5C. Does your county have a citizens' foster care review board?

Yes	1 (Q.5D)	
No.	2 (Q.5E)	/65
DK.	8 (Q.5E)	

5D. We are interested in the relationship between the citizen foster care review board, the court and the agency. Which of the following statements best describes this relationship in your county. [CIRCLE ONLY ONE RESPONSE]

Review Board decisions are recommendations to the agency only	01	/66-67
Review Board decisions are recommendations to the court only and not binding on the agency unless ratified by the court.	02	
Review Board decisions are binding on the agency without court action.	03	
Review Board decisions are binding on the agency unless the agency disagrees formally, in which case parties may seek court resolution of the disagreements	04	
Or some other (RECORD RESPONSE) ____________________	05	

____

____

5E. Do the judges or others conducting the hearing hear primarily juvenile and/or family law cases?

Yes.	1	
No	2	/68
Other [SPECIFY] ____________________	8	

____

INTERVIEWER'S NOTE: IF RESPONDENT ANSWERS MORE THAN ONE RESPONSE TO Q.5A. ASK THE RESPONDENT TO ANSWER THE REMAINING APPLICABLE QUESTIONS FOR THE HEARINGS CONDUCTED BY THE POSITION CHOSEN IN Q.5B.

|CARD 04|

6A. Who among the following are notified of their right to attend the hearing?

6B. Is notification mandated throughout the state?

	A. Is notified in county	B. Mandated throughout the state	
1. Natural parent.	1 2	1 2	/16-17
2. Child	1 2	1 2	/18-19
3. Agency.	1 2	1 2	/20-21
4. Parents' attorney	1 2	1 2	/22-23
5. Child's attorney or guardian ad litem .	1 2	1 2	/24-25
6. Agency attorney	1 2	1 2	/26-27
7. Any other [SPECIFY] . . . . ____________________ ____________________	1 2	1 2	/28-30

6C. Who is responsible for notification?

Agency.	1	/31
Court	2	
Both.	3	
Don't know.	8	

7A. Which of the following procedures are followed with regard to the [INSERT NAME OF HEARING]? [READ EACH PROCEDURE AND THEN ASK 7B]

7B. Is this mandated by state law or court rules?

Procedure	7A. Practice Yes No	7B. Mandated Yes No	
1. Those notified are provided with written notice.	1 2 Any exception? ________ ________	1 2	/32-33
2. Those notified are provided with a case report prior to the hearing. . . .	1 2 Any exception? ________ ________	1 2	/34-35
3. The notice includes a statement of the possible results of the hearing	1 2 Any exception? ________ ________	1 2	/36-37
4. Those notified are required to attend .	1 2 Any exception? ________ ________	1 2	/38-39
5. Those notified are appointed counsel if they are not already represented . .	1 2 Any exception? ________ ________	1 2	/40-41
6. Those present are given the opportunity to present and question witnesses	1 2 Any exception? ________ ________	1 2	/42-43
7. Those notified have the right to appeal.	1 2 Any exception? ________ ________	1 2	/44-45
8. A record is made of the proceedings . .	1 2 Any exception? ________ ________	1 2	/46-47
9. There is a written finding or order as a result of the hearing.	1 2 Any exception? ________ ________	1 2	/48-49
10. Are there any other due process safeguards applied [SPECIFY] ________ ________	1 2 Any exception? ________ ________	1 2	/50-51 /52-53

8A. In general, are foster parents also provided all the due process rights listed in the preceding question?

Yes, all.	1 (Q.9)	/54
Yes, some	2 (Q.8B)	
No.	3 (Q.9)	
DK.	8	

8B. Which ones are not provided to them?

9A. Does the court or court-appointed body in your county that conducts [INSERT NAME OF HEARING] also conduct hearings to: [CIRCLE ONE FOR EACH ITEM]

9B. Does this vary by county? [CIRCLE ONE FOR EACH ITEM]

	A.		B. Varies by county			
	Yes	No	Yes	No	DK	
1. Terminate parental rights.	1	2	1	2	8	/55-56
2. Approve adoption	1	2	1	2	8	/57-58
3. Establish guardianship	1	2	1	2	8	/59-60
4. Determine abuse or neglect	1	2	1	2	8	/61-62
5. Decide delinquency cases	1	2	1	2	8	/63-64
6. Decide custody in divorce cases.	1	2	1	2	8	/65-67

Respondent's comments:

10. The next questions relate to written policies or laws you may have concerning the hearings. [CIRCLE YES OR NO FOR EACH ITEM]

	Yes	No	DK	
10A. Are there special court rules or written policies for conducting these hearings?	1	2	8	/68
10B. Are there state statues which specify procedures for conducting these hearings?.	1	2	8	/69
10C. Have there been any new state laws passed with respect to the hearings since January 1, 1980?.	1	2	8	/70
10D. Are there any plans to revise the statutes to include provisions for these hearings?.	1	2	8	/71
10E. Are there any statutory court standards for the decisions to be made at the hearings on the permanent plan for the child?	1	2	8	/72

ASK RESPONDENT TO SEND COPIES OF WRITTEN RULES, POLICIES OR STATUTES FOR HEARING TO WESTAT.

11. Do you believe that the person conducting the [INSERT NAME OF HEARING] has the authority in the context of the hearing to order the agency to: [CIRCLE YES OR NO FOR EACH ITEM]

[CARD 05]

	Yes	No	
a. Return the child to their parent	1	2	/16
b. Provide services to the family with a plan of returning the child home at a specified time	1	2	/17
c. Continue child in foster care for a specified time period.	1	2	/18
d. Initiate a termination of parental rights proceeding	1	2	/19
e. Take steps to place the child for adoption within a certain time frame	1	2	/20
f. Continue the child in foster care on a permanent or long term basis. .	1	2	/21
g. Place the child with specific foster parents, relatives, or any specific group home or residential placement	1	2	/22
h. File for guardianship or custody for the child	1	2	/23

12. Now we are interested in getting your assessment of the impact or potential impact of holding judicial or court appointed body foster care review hearings. In your view have any of the following been or would they be increased, decreased or not affected by holding the hearings. [READ EACH ITEM AND RECORD RESPONSE]

	Has been			Would be				
	Increased	Decreased	Not affected	Increased	Decreased	Not affected	DK	
a. Percent of terminations of parental rights	1	2	3	4	5	6	8	/24
b. Length of time before agency recommends termination of parental rights	1	2	3	4	5	6	8	/25
c. Number of placements per child.	1	2	3	4	5	6	8	/26
d. Parental participation in the case review process	1	2	3	4	5	6	8	/27
e. Percent of children returned home.	1	2	3	4	5	6	8	/28
f. Protection of child rights. . .	1	2	3	4	5	6	8	/29
g. Protection of parental rights .	1	2	3	4	5	6	8	/30
h. Time involved for review of each case	1	2	3	4	5	6	8	/31
i. Percent of cases which agency recommends long term or permanent foster care for children.	1	2	3	4	5	6	8	/32
j. Average length of substitute care.	1	2	3	4	5	6	8	/33

13. Overall, do you agree or disagree with each of the following hearing elements as set forth in P.L. 96-272? (PLEASE CIRCLE AGREE OR DISAGREE FOR EACH ITEM)

	Agree	Disagree	
a. That an actual hearing be held (rather than paper review)	1	2	/34
b. That it be under a court or court-appointed body.	1	2	/35
c. That the hearing determine the plan for the child's permanent future home	1	2	/36
d. That procedural safeguards be applied to protect the involved parties	1	2	/37
e. That hearings be held within 18 months of initial placement	1	2	/38
f. That hearings be held periodically thereafter for children who remain in care.	1	2	/39
g. That the hearing requirements apply to all children in substitute care eighteen months or longer	1	2	/40

13H. If they disagree, ask why? ____

____ /41-42

____ /42-44

____ /45-46

13I. Apart from Federal law, would you say that there is support in your court for conducting regularly scheduled dispositional hearings? [PLEASE CIRCLE ONLY ONE RESPONSE]

Yes, strong.	1	/47
Yes, moderate.	2	
Neutral.	3	
Not much	4	
Not at all	5	

13J. Are there or have there been any laws or court review policies or procedures that make it difficult to meet the P.L. 96-272 dispositional hearing requirements?

Yes.	1 (Q.13K)	/48
No	2 (Q.14A)	

13K. If yes, what are they? ____ /49-50

____

____

14A. What do you see as being the major benefits of requiring dispositional hearings for children in foster care? [RECORD RESPONSE] [PROBE FOR RESPONSES FOR BENEFITS TO FAMILIES AND ALSO TO AGENCY AND COURTS]

____ /51-52

____

____ /53-54

____

____ /55-56

____

14B. What are the major problems involved in implementing the hearings as required by P.L. 96-272? [RECORD RESPONSE] [PROBE FOR RESPONSES FOR PROBLEMS TO FAMILIES AND ALSO THE AGENCY AND COURTS]

______________________________ /57-58

____

______________________________ /59-60

____

______________________________ /61-62

____

14C. One of the purposes of this study is to obtain feedback from states on the dispositional hearing components specified in P.L. 96-272. We'd like to know any recommendations you might have for:

1. Changes to improve this legislation.

2. What would be of assistance to states in its implementation?

1. ______________________________

______________________________ /63-64

______________________________ /65-66

2. ______________________________

______________________________ /67-68

______________________________ /69-70

NOTE: IF RESPONDENT ANSWERED IN Q.5A THAT COURT APPOINTED BODIES CONDUCT HEARINGS GO TO Q.15. IF NOT, GO TO Q.24. SKIP Q.15 TO Q.23.

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|CARD 0_
+/16-80

NOTE: ASK THE FOLLOWING QUESTIONS ONLY TO THOSE PEOPLE WHO HAVE INDICATED IN Q.5A THAT COURT APPOINTED OR APPROVED BODIES CONDUCT DISPOSITIONAL HEARINGS]

As you have indicated that court appointed/approved bodies conduct dispositional hearings, we have a few questions about how these bodies operate in your state.

|CARD 0

15. Are the administrative bodies conducting dispositional hearings as defined by P.L. 96-272: [CIRCLE ONE]

a. Court appointed 1 (Q.16)
b. Court approved. . . . . 2 (SKIP TO Q.17)
c. Other (SPECIFY)______________ 3 /16
d. DK. 8

16. Who appoints the members of the court appointed administrative body? [CIRCLE ONE]

a. Local judges. 01
b. State supreme court 02
c. Both. 03 /17-18
d. Other (SPECIFY)________________________ 04

[SKIP TO QUESTION 18]

17. Who nominates or appoints the members of the court approved administrative body? [CIRCLE YES OR NO FOR EACH ITEM]

a. State child welfare agency. 01
b. Governor. 02
c. State legislature . . . . 03 /19-20
d. All of above. 04
e. Other (SPECIFY)________________________ 05

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18A. Generally, what is the composition of the administrative body? [CIRCLE YES OR NO FOR EACH ITEM]

Citizens only 01

Paid professional consultants only. 02

Child welfare agency staff only 03

Citizens and agency . . . . 04 /21-22

Citizens, professional staff. 05

Professionals and staff 06

Other (SPECIFY)____________________ 07

18B. Are there any special requirements for Board composition (i.e., representation by specific professions)?

Yes 1 (Q.18C)

No. . . . . 2 (Q.19) /23

DK. 8 (Q.19)

18C. If yes, what are the requirements? ____

____

19. Do the decisions made by the administrative bodies have to be ratified by the court in order for them to be carried out? [CIRCLE ONE]

Yes, always 1

Depend on type of decision or whether contested . 2 (GO TO Q.19A) /24

No. 3

DK. 8

(PROBE FOR)

19A. Under what circumstances must the decision be ratified by the court and what is the procedure for handling these cases? ____

____

____

____

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20. Do the administrative bodies have written rules for their proceedings which require the following? [CIRCLE YES OR NO FOR EACH ITEM]

	Yes	No	DK	
a. Taking of sworn testimony	1	2	8	/25
b. Keeping of verbatim records by tape recorder or transcriber. . . .	1	2	8	/26
c. Decisions based only on information presented at the hearing . . .	1	2	8	/27
d. Written decisions on the future status of the child with statement of findings	1	2	8	/28
e. Notification of parties involved. .	1	2	8	/29

SKIP TO Q.24

ASK QUESTIONS 21-23 ONLY OF RESPONDENTS WHO ANSWERED NO TO ALL PARTS OF Q.1.

21. Which of the following types of review does your county conduct for children in foster care? [PROBE FOR "AS NEEDED" OR "PLANNED")

	As needed	Planned	Not held	DK	
a. Caseworker/supervisory	1	2	3	8	/30
b. Agency administrator	1	2	3	8	/31
c. Interdisciplinary panel	1	2	3	8	/32
d. Citizen review board	1	2	3	8	/33
e. Other (SPECIFY) ________ ____________	1	2	3	8	/34

Record comments ______________________________ /34

______________________________ /35

____

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22. We like to know any plans your county might have to initiate judicial hearings on a periodic basis?

	Yes	No	DK	
a. Do you plan to initiate hearings in your county?. . .	1	2	8	/36
b. Are there any plans to modify state law to mandate these hearings?	1	2	8	/37
c. Are these plans in response to P.L. 96-272?	1	2	8	/38
d. Do they include the provision that hearings be held for all children in foster care 18 months or longer?.	1	2	8	/39

23. RECORD ANY COMMENTS ABOUT PLANS:

For statistical purposes we would like to ask a few additional questions about your experience and background.

24. What is your curent position with the court? (or court appointed or approved administration body)?

________________________________ /40-41

25. How long have you:

a. Been a [INSERT POSITION]? ________ NUMBER OF YEARS /42-43

b. The court/system? ________ NUMBER OF YEARS /44-45

c. Been involved with foster care cases? ________ NUMBER OF YEARS /46-47

+/48-80

CONCLUDE INTERVIEW.
THANK RESPONDENT.

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